

Chapter 484

1961 REPLACEMENT PART

Traffic Offense Procedures

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484.010 Definitions. As used in this chapter and ORS 131.365, unless the context otherwise requires:

(1) "Bail" means money or its equivalent deposited by a defendant to secure his appearance for a traffic offense.

(2) "City court" means a municipal court, whether or not it is exercising authority under the charter or ordinances of a city or as a justice court under the laws of this state.

(3) "City policeman" includes a city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(4) "City traffic offense" means any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation, except ordinances governing parking of vehicles.

(5) "Major traffic offense" means a violation of any of the following provisions of law or a city ordinance conforming thereto:

(a) Negligent homicide, as defined in ORS 163.091.

(b) Reckless driving, as defined in subsection (1) of ORS 483.992.

(c) Driving while under the influence of intoxicating liquor, barbiturates or narcotic drugs, as defined in subsection (2) of ORS 483.992.

(d) Failure to perform the duties of a driver involved in an accident or collision, as defined in subsections (1) and (2) of ORS 483.602 and ORS 483.604.

(e) Operating a motor vehicle while the operator's or chauffeur's license is suspended or revoked, as defined in ORS 482.650.

(6) "Police officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff and a city policeman.

(7) "State court" means a circuit, district or justice court or magistrate.

(8) "State traffic offense" includes:

(a) A violation of ORS 164.650, 164.660, 166.630 or 649.080.

(b) A violation of any provision of law for which a penalty is provided in ORS chapter 481, 482, 483, 485, 486 or 767.

(c) Any other violation of a motor vehicle law of this state, including major traffic offenses mentioned in paragraphs (a) to (e) of subsection (5) of this section.

(9) "Traffic offense" includes an offense mentioned in subsections (4), (5) and (8) of this section.

[1959 c.664 §1]

484.020 Traffic offense proceedings to conform to this chapter. All proceedings concerning traffic offenses shall conform to the provisions of this chapter and ORS 131.365.

[1959 c.664 §2]

484.030 Jurisdiction of courts. (1) A circuit or district court has concurrent jurisdiction of all state traffic offenses, except that the circuit court has exclusive jurisdiction of the trial of negligent homicide, as defined in ORS 163.091, and of felonies.

(2) A justice court, for offenses committed within the county, and a city court, for offenses committed within the jurisdictional authority of the city, have concurrent jurisdiction of all state traffic offenses, except that they do not have jurisdiction of the trial of the following:

(a) Any felony.

(b) Negligent homicide, as defined in ORS 163.091.

(c) Violations of provisions of law for which a penalty is provided in subsection (10) of ORS 483.990.

(3) Paragraph (c) of subsection (2) of this section does not deprive a city court of jurisdiction of an offense against an ordinance conforming to provisions of law for which a penalty is provided in subsection (10) of ORS 483.990.

[1959 c.664 §3(1), (2), (3)]

484.040 Venue for state traffic offense.

(1) An action for a state traffic offense may be commenced in any of the following counties:

(a) The county in which the offense was committed.

(b) Any other county whose county seat is a shorter distance by road from the place where the offense was committed than the county seat of the county in which the crime was committed, if the action is commenced in the circuit or district court.

(2) If the action is commenced in a county other than that in which the offense was committed, at the request of the defendant the place of trial may be changed to the county in which the offense was committed. A request for a change of the place of trial shall be made prior to the date set for the trial and shall, if the action is commenced in a circuit or district court, be governed by the provisions of ORS 131.410 to 131.470. If the action is commenced in a justice court a request for change of the

place of trial shall be governed by the provisions of ORS 156.100.

[1959 c.664 §6; 1961 c.442 §2]

484.050 to 484.090 [Reserved for expansion]

484.100 Authority of police officer to arrest. (1) A police officer may arrest a person for a traffic offense at any place within the jurisdictional authority of the governmental unit by which he is authorized to act.

(2) A police officer may arrest a person for a traffic offense at a place outside the jurisdictional authority of the governmental unit by which he is authorized to act, if:

(a) A traffic offense was committed in his presence at a place within the jurisdictional authority of the governmental unit; and

(b) The officer immediately pursues the person who committed the offense in an attempt to arrest him; and

(c) The officer arrests the person immediately upon the conclusion of a continuous pursuit.

[1959 c.664 §7]

484.110 Authority of weighmasters. Any person duly authorized as a weighmaster by the State Highway Commission or any county weighmaster in whose presence is violated any provision of ORS 483.502 to 483.536 may proceed as provided in ORS 484.120 to 484.160 and 484.180 to 484.230 in the same manner as if he were a police officer.

[1959 c.664 §17]

484.120 Arresting officer or magistrate taking security for appearance of arrested person. (1) A police officer may take security for the appearance of a person arrested for a traffic offense if it appears to the officer that the arrested person might fail to appear in response to a citation and if:

(a) The person is arrested for violation of any provision of ORS 483.502 to 483.536; or

(b) There is no accessible magistrate.

(2) The officer may take as security only the arrested person's unexpired card of membership in an organized automobile association qualified as provided in ORS 483.620 or the arrested person's unexpired guaranteed arrest bond certificate, as defined in ORS 747.082, if such card or certificate is

acceptable as bail for the offense for which the arrest was made.

(3) The officer shall give his receipt for the security accepted and shall issue the person a citation to appear before a court having jurisdiction of the offense. The officer shall promptly cause the security to be delivered to the court. The security shall be returned to the arrested person when he is admitted to bail before the court or it may be treated by the court as bail.

(4) A magistrate has authority to accept security for the appearance of a person arrested for a traffic offense and brought before him, as provided in ORS 484.130. If the magistrate does not have jurisdiction of the offense, he shall promptly forward the security accepted and all documents in connection with the case to the most conveniently located court having jurisdiction of the offense and in which the venue may properly be laid.

[1959 c.664 §§3(4), 8; 1961 c.569 §6]

484.130 Putting up bail, driver's license or other security by defendant before magistrate. (1) A person brought before a magistrate for a traffic offense shall be released on giving adequate undertaking to appear in answer to the offense at such time and place as is fixed by the magistrate. The magistrate may require the arrested person to give as security for his appearance:

(a) The arrested person's unexpired card of membership in an organized automobile association qualified as provided in ORS 483.620 or the arrested person's unexpired guaranteed arrest bond certificate, as defined in ORS 747.082, if such card or certificate is acceptable as bail for the offense for which the arrest was made; or

(b) If the arrested person has no such automobile association card or certificate, as provided in paragraph (a) of this subsection, or if such card or certificate is not acceptable as bail for the offense for which the arrest was made, such sum as may be required by the magistrate; or

(c) The operator's or chauffeur's license issued by this state to the arrested person.

(2) If the operator's or chauffeur's license of a person is accepted as security, the magistrate shall issue the person a receipt therefor and shall promptly notify the Department of Motor Vehicles of the fact. The Department of Motor Vehicles shall prepare a form of receipt for use in connection with this subsection and all receipts issued pur-

suant to this subsection shall conform to the form so prepared. Until the time fixed for appearance or the expiration of 30 days from the date the receipt is issued, whichever first occurs, the magistrate's receipt confers on the person to whom it is issued the same privileges as the license which was accepted.

(a) If the arrested person appears at the time fixed, his license shall be returned to him, unless taken up by the court pursuant to subsection (3) of ORS 482.470.

(b) If the person fails to appear at the time fixed, his license shall be forwarded to the Department of Motor Vehicles. Upon receipt by the department, the license shall be suspended for an indefinite period. If the person thereafter makes his appearance before the court, the court shall advise the department of the fact and the department shall thereupon terminate the suspension ordered pursuant to this subsection.

[1959 c.664 §9; 1961 c.569 §7]

484.140 Guaranteed arrest bond certificate as security for appearance. When a guaranteed arrest bond certificate with respect to which a surety company has become surety under ORS 747.082 to 747.086 is tendered as bail by the individual whose signature appears thereon as a member of an automobile club or automobile association, if the individual is arrested for a traffic offense which is committed before the date of expiration shown on that certificate but which is neither a felony nor a violation of subsection (2) of ORS 483.992, the magistrate or officer who may take security for the individual's appearance in court shall accept the certificate in lieu of cash bail or an undertaking on bail as a bail bond in an amount not to exceed \$200 to guarantee the appearance of the individual in a state court or city court. If the individual does not make the appearance, the surety for the certificate is subject on his undertaking under ORS 747.084 to any forfeiture or enforcement provision of any statute, charter or ordinance that otherwise applies to bail on their undertaking.

[1961 c.569 §2]

484.150 Traffic citations must conform to certain requirements. (1) A traffic citation conforming to the requirements of this section shall be used for all traffic offenses in this state.

(2) The citation shall consist of at least

four parts. Additional parts may be inserted by law enforcement agencies for administrative use. The required parts are:

- (a) The complaint.
- (b) The abstract of record.
- (c) The police record.
- (d) The summons.

(3) Each of the parts shall contain the following information or blanks in which such information shall be entered:

(a) The name of the court and the court's docket or file number.

(b) The name of the person cited.

(c) The offense of which the person is charged, the date, time and place at which the offense occurred, the date on which the citation was issued and the name of the arresting officer.

(d) The time and place at which the person cited is to appear in court.

(e) The bail fixed for the offense.

(4) Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for law enforcement agencies in the state.

(5) The complaint shall contain a form of certificate by the arresting officer to the effect that he certifies, under the penalties provided in ORS 484.990, that he has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. The certificate need not be made before a magistrate or any other person. The reverse side of the complaint shall contain the substance of the matters appearing on the reverse side of the Uniform Traffic Ticket and Complaint promulgated by the American Bar Association, and set forth in the Model Rules Governing Procedure in Traffic Cases, approved by the National Conference of Commissioners on Uniform Laws, July 8-13, 1957.

(6) The reverse side of the abstract of court record shall contain such matters and shall be in such form as may be prescribed by the Department of Motor Vehicles for the purpose of carrying out the requirements of subsection (1) of ORS 484.240.

(7) The summons shall also contain a notice to the person cited that the complaint will be filed. The reverse side of the summons shall contain the following:

- (a) A form as follows:

READ CAREFULLY

You must appear in court at the time mentioned in this citation if you are charged with any of the following offenses:

1. Any felony.
 2. Negligent homicide.
 3. Reckless driving.
 4. Driving while under the influence of intoxicating liquor, barbiturates or narcotic drug.
 5. Leaving the scene of an accident.
 6. Operating a motor vehicle while your driver's license was suspended or revoked.
- If you are charged with any **OTHER** offense, you may do **ANY** one of the following:

1. Appear in court at the time mentioned in this summons and demand a hearing. The court will then set a time for a hearing.

2. Mail to the court this summons, together with a check or money order in the amount of the bail indicated on the other side of this summons and tell the court you want a hearing. **This summons and the bail must reach the court before the time when this summons requires you to appear in court.** If you don't want a hearing, but wish to explain your side, send your explanation with the summons and bail. The court will then consider your explanation and may forfeit your bail, or part of it, on the basis of your explanation and what the officer tells the court.

3. Sign the plea of guilty below and send this summons to the court, together with check or money order in the amount of bail indicated on the other side of this summons. **This summons and the bail must reach the court before the time when this summons requires you to appear in court.**

4. If you have already given bail or other security for your appearance, proceed as mentioned above but do not send in any additional sum as bail.

5. The court may in any case require you to appear for a hearing.

(b) A "Notice" and "Appearance, Plea of Guilty and Waiver" substantially in the form appearing on the reverse side of the summons in the form of Uniform Traffic Ticket and Complaint mentioned in subsection (5) of this section.

[1959 c.664 §§10, 11]

484.160 Minimum requirements for summons. A summons in a traffic offense is sufficient if it contains the following:

- (1) The name of the court, the name of

the person cited, the date on which the citation was issued, the name of the arresting officer and the time and place at which the person cited is to appear in court.

(2) A statement or designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so, and the date, time and place at which the offense is alleged to have occurred.

(3) A notice to the person cited that a complaint will be filed with the court based on the offense.

(4) The amount of bail, if any, fixed for the offense.

[1959 c.664 §15]

484.170 Minimum requirements for complaint. (1) Except as provided in this section, a complaint in a traffic offense is sufficient if it contains the following:

(a) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the name of the defendant.

(b) A statement or designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the offense is alleged to have occurred.

(c) A certificate as provided in subsection (5) of ORS 484.150, signed by the arresting officer.

(2) In a felony case, or a case of negligent homicide as defined in ORS 163.091, or in any other case in which the prosecuting attorney deems it appropriate, there shall be filed an indictment or information as in ordinary criminal cases.

(3) For violation of a provision for which a penalty is provided in subsection (10) of ORS 483.990, or violation of a city ordinance conforming to such a provision, an indictment or information or, in city court, a city complaint, shall be filed.

(4) A private person may commence an action for a traffic offense in the same manner as a police officer, except that such person shall swear to the complaint before a magistrate or the clerk or deputy clerk of the court.

[1959 c.664 §16]

484.180 Officer to deliver summons to person cited and other parts of citation to court. The officer issuing the citation shall

deliver the summons to the person cited and shall cause the complaint and abstract of court record to be delivered to the court.
[1959 c.664 §12(1)]

484.190 When appearance by defendant mandatory; alternatives available to defendant in other cases. (1) The defendant shall appear in court at the time mentioned in the summons if the citation is for:

- (a) A major traffic offense.
- (b) Any felony.

(2) In other cases, the defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with check or money order in the amount of the bail set forth in the summons, and inclosing therewith:

- (a) A request for a hearing; or
- (b) A statement of matters in explanation or mitigation of the offense charged; or
- (c) The executed appearance, waiver of hearing and plea of guilty appearing on the summons.

[1959 c.664 §12(2), (3)]

484.200 Effect of submitting written statement under ORS 484.190. If a defendant has submitted to the court a written statement as provided in paragraph (b) of subsection (2) of ORS 484.190, it constitutes a waiver of hearing and consent to judgment by the court declaring a forfeiture of bail on the basis of such statement and any testimony or written statement of the arresting officer or other witnesses which may be presented to the court.

[1959 c.664 §13(2)]

484.210 Fixing time for hearing; notice to defendant. If the defendant requests a hearing, or if pursuant to ORS 484.220 the court directs that a hearing be had, the court shall fix a date and time for the hearing and, unless notice is waived, shall at least five days in advance of the hearing mail to the defendant notice of the date and time so fixed.

[1959 c.664 §13(1)]

484.220 Court may direct hearing be held in any case; penalties that may be imposed without hearing. (1) In any case the court may direct that a hearing be held. Otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited

by the defendant and remit to the defendant any amount by which the bail exceeds the fine.

(2) No sentence to jail may be imposed, nor any fine imposed in excess of the bail deposited by the defendant, unless a hearing is held. A recommendation for suspension of the defendant's license shall not be made unless a hearing has been ordered, but the failure of the defendant to appear at the hearing shall not preclude such a recommendation.

[1959 c.664 §13(3)]

484.230 Warrant for arrest. (1) If a person cited fails to comply with the provisions of ORS 484.180 and 484.190, or if he fails to appear at the time fixed by the court for the hearing, a warrant for his arrest may be issued. A warrant issued by a circuit or district court may be served, without further indorsement, in any county in this state.

(2) No original warrant of arrest may be issued pursuant to this section after a period of 60 days from the date of the entry of an order declaring a forfeiture of bail or other security given by the arrested person. After the expiration of that period the order of forfeiture shall be deemed the final disposition of the case. This subsection does not prevent the issuance of an alias warrant after the expiration of the 60-day period if a warrant has been issued within that period.

[1959 c.664 §14]

484.240 Reports of convictions and bail forfeitures to Department of Motor Vehicles.

(1) The judge or clerk of every court of this state having jurisdiction of any traffic offense, as defined in ORS 484.010, including all local and municipal judicial officers in this state, shall keep a full record of every case in which a person is charged with violation of any such offense. If such person is convicted or his bail is forfeited, an abstract of such record shall be sent forthwith to the Department of Motor Vehicles.

(2) Each clerk of any court of this state shall, within 10 days after any final judgment of conviction of any person of manslaughter or other felony in the commission of which a vehicle was used, send to the Department of Motor Vehicles a certified copy of such judgment. The department shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

[1959 c.664 §18]

484.250 Disposition of moneys collected by courts. (1) One-half of all fines, costs and forfeited bail collected by the judge, magistrate or clerk of a court having jurisdiction of a traffic offense shall be paid as follows:

(a) If collected in a state court, to the treasurer of the county in which the offense occurred.

(b) If collected in a city court, to the city treasurer.

(2) The other half of such fines, costs and bail shall be paid as follows:

(a) If resulting from prosecutions initiated by or from arrests or complaints made by a member of the Oregon State Police, to the State Treasurer, who shall apply the money to the credit of the General Fund to be used and expended as are other funds in the General Fund.

(b) If resulting from prosecutions initiated by or from arrests or complaints made by a State Highway Department weighmaster, to the State Treasurer, who shall place the money to the credit of the State Highway Fund, to be used and expended as are other state highway funds.

(c) If resulting from prosecutions initiated by or from arrests or complaints made by a city policeman, to the treasurer of the city, municipal or quasi-municipal corporation by whom such policeman is employed.

(d) If resulting from prosecutions initiated by or from arrests or complaints made by a sheriff, deputy sheriff, county weighmaster or other peace officer not mentioned in paragraphs (a) to (c) of this subsection, to the treasurer of the county in which the offense occurred.

(e) In other cases, to the same person to whom payment is made of the half provided for in subsection (1) of this section.

(3) If paragraph (a) or (b) of subsection (2) of this section is applicable, and if the fine or penalty imposed is remitted, suspended or stayed, or the offender against whom the fine or penalty was levied or imposed serves time in jail in lieu of paying the fine or penalty or a part thereof, the committing judge or magistrate shall certify the facts thereof in writing to the State Treasurer not later than the tenth day of the month next following the month in which the fine was remitted or penalty suspended. If any part of the fine is thereafter paid, it shall be remitted to the judge or magistrate who imposed the fine or penalty, who shall

distribute it as provided in subsections (1) and (2) of this section.

[1959 c.664 §§20, 21]

484.260 Delinquency in paying over moneys under ORS 484.250. If any of the money collected under ORS 484.250 is not paid over as provided in that section by the tenth day of the second calendar month next following the month in which it is received, the person withholding it is delinquent in its payment and, in addition to the penalties prescribed by law, he is personally liable therefor to the public bodies to which the money is payable, with interest at the legal rate from the delinquency date until paid. An action may be maintained in the name of the state for the recovery of the unpaid amounts with interest.

[1959 c.664 §22]

484.270 to 484.300 [Reserved for expansion]

484.310 Establishment of violations bureau authorized. (1) Any court, when it determines that the efficient disposition of its business and the convenience of persons charged so requires, may establish a Traffic Court Violations Bureau and constitute the clerk or deputy clerk of the court or any other appropriate official within the jurisdiction in which the court is held as a violations clerk for the Traffic Court Violations Bureau.

(2) The violations clerk shall accept written appearance, waiver of trial, plea of guilty and payment of fine and costs in traffic offense cases, subject to the limitations set forth in this section and ORS 484.320. The violations clerk shall serve under the direction and control of the court appointing him.

(3) The court shall by order designate the traffic offenses within the authority of the violations clerk. Such offenses shall not include any major traffic offense.

(4) The court shall establish schedules, within the limits prescribed by law, of the amounts of fines to be imposed for first, second and subsequent offenses, designating each offense specifically. The order of the court establishing the schedules shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid to, receipted by and accounted for by the violations clerk in the same manner as other fines and costs are received by the court.

[1959 c.664 §23]

484.320 Procedure where violations bureau established. (1) Any person charged with any traffic offense within the authority of the violations clerk may, upon signing an appearance, plea of guilty and waiver of trial, pay the clerk the fine established for the offense charged, and costs.

(2) A city court may by rule provide for the disposition of violations of ordinances relating to parking by the violations clerk in the manner provided in subsections (1) and (2) of this section and ORS 484.310.

(3) A person who has been found guilty of, or who has signed a plea of guilty to, one or more previous traffic offenses in the preceding 12 months within the jurisdiction of the court shall not be permitted to appear before the violations clerk unless the court, by general order applying to certain specified offenses, permits such appearance. [1959 c.664 §§24, 25]

484.330 to 484.400 [Reserved for expansion]

484.410 Supreme Court may make uniform rules of procedure in traffic cases; schedule of minimum bail. The Supreme Court may, with the advice of the Traffic Court Rules Committee provided in ORS 484.420:

(1) Promulgate rules for the conduct of cases involving traffic cases. Such rules, when promulgated, supersede any local rule of a state court inconsistent therewith. All city ordinances and city court rules shall conform to the rules so promulgated.

(2) Establish a schedule of recommended amounts of minimum bail or security for various traffic offenses. The schedule shall be a guide in all traffic offenses in this state. [1959 c.664 §26]

484.420 Traffic Court Rules Committee. (1) There is hereby established the Traffic Court Rules Committee. The committee shall consist of the Attorney General, Superintendent of the Oregon State Police, the Director of the Department of Motor Vehicles, or their respective representatives, a representative of the State Highway Department appointed by the State Highway Commission, two persons appointed by the Governor, a member of the Oregon State Bar

appointed by the Board of Bar Governors, and the following judges appointed by the Chief Justice of the Supreme Court:

(a) A judge of the circuit court.

(b) A person who is either a judge of a district court or a justice of the peace.

(c) A judge of a city court.

(2) The Traffic Court Rules Committee shall:

(a) Recommend a schedule of amounts of minimum bail or security for various traffic offenses.

(b) Advise the Supreme Court regarding rules for the conduct of cases involving traffic offenses.

(c) Conduct and supervise conferences and educational programs for judges of courts having jurisdiction over traffic offenses. It shall be the duty of all such judges to attend or participate in such conferences and programs.

(d) Cooperate with the Supreme Court in the supervision of traffic courts in establishing methods and forms of keeping traffic court records and in making and publishing reports of traffic court business.

(3) The members of the Traffic Court Rules Committee shall choose a chairman from their number, who shall serve as chairman for a term of two years from the date of his election and until his successor is elected and qualified. The Chief Justice of the Supreme Court shall appoint an acting chairman to serve until the election of a chairman by the committee. The members of the Traffic Court Rules Committee shall be compensated in the same manner as members of the State Highway Commission, as provided in subsection (2) of ORS 366.110. [1959 c.664 §27]

484.430 to 484.980 [Reserved for expansion]

484.990 Penalties. Any person who in connection with the issuance of a citation, or the filing of a complaint, for a traffic offense, as defined in subsection (9) of ORS 484.010, wilfully certifies falsely to the matters set forth therein is punishable upon conviction by imprisonment in the county jail for a term not exceeding one year or by a fine of not more than \$5,000, or both. [1959 c.664 §19]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel