

Chapter 484

1979 REPLACEMENT PART

Traffic Offense Procedures; Traffic Safety

TRAFFIC OFFENSE PROCEDURES			
484.010	Definitions for ORS 484.010 to 484.435	484.385	Plea agreements limited; rehabilitation option
484.020	Traffic offense proceedings to conform to ORS 484.010 to 484.435	484.390	Counsel for state and defendant
484.030	Jurisdiction of courts; authority to prosecute	484.395	Former jeopardy, res judicata and collateral estoppel not applicable in traffic infraction cases
484.040	Venue for state traffic offense	484.400	Use of prior conviction to impeach
484.100	Authority of police officer to arrest or issue citation	484.405	Appeal
484.105	Authority of police officer to issue citation to driver involved in accident	484.415	Trial judge's authority to order suspension of license, permit or right to apply
484.110	Authority of weighmasters	484.425	Court ordered suspension to run concurrently
484.120	Taking security for appearance of arrested person	484.435	Searches and seizures restricted in certain traffic infraction arrests
484.125	When automobile association membership card is acceptable as bail	TRAFFIC SAFETY COMMISSION	
484.130	Putting up bail, driver's license or other security by defendant	484.510	"Commission" defined
484.140	Guaranteed arrest bond certificate as security for appearance	484.520	Traffic Safety Commission; appointment of members; compensation and expenses
484.150	Traffic citation requirements; exception	484.550	Executive secretary; staff
484.155	Private person may commence action for traffic offense; complaint; service of summons	484.560	Governor's authority to carry out ORS 484.510 to 484.600
484.160	Minimum requirements for summons	484.570	Duties of commission
484.170	Minimum requirements for complaint	484.580	City and county highway safety programs authorized
484.175	Designation of speed in complaint and summons charging violation of basic speed rule	484.590	Review of city and county highway safety programs; function of Governor
484.180	Delivery of summons to person cited; delivery of other parts of citation	484.595	Traffic Safety Commission Account
484.190	Appearance by defendant	484.600	Highway Safety Trust Account
484.200	Effect of statement in explanation or mitigation	HABITUAL OFFENDERS	
484.210	Fixing hearing date; notice to defendant; license suspension for failure to appear	484.700	Short title
484.220	Hearing discretionary with court; exceptions	484.705	Definitions for ORS 484.700 to 484.750
484.222	Impounding vehicles upon certain driver convictions; redemption; suspension of registration; rights of security interest holders	484.710	Policy
484.230	Warrant for arrest	484.715	Action by division upon receipt of abstract of conviction or bail forfeiture relating to traffic offense; meeting with licensee
484.240	Reports of convictions and bail forfeitures to Motor Vehicles Division	484.720	Administrator to certify to district attorneys operating records of habitual offenders; proceedings against habitual offenders
484.250	Disposition of moneys collected by courts	484.725	Order to show cause why habitual offender should not be barred from vehicle operation; service of order; procedure for review of convictions
484.260	Delinquency in paying moneys under ORS 484.250	484.730	Dismissal of proceedings brought against innocent persons; order to habitual offender not to operate vehicles and to surrender operating licenses and permits
484.310	Establishment of violations bureau authorized	484.735	Limitation on issuance of operating license to habitual offenders
484.320	Payment of fines to violations bureau; exceptions	484.740	Effect of operating vehicle by person under court order to refrain from vehicle operation
TRAFFIC INFRACTIONS		484.745	Petition for restoration of privilege to operate vehicle by habitual offender; terms and conditions of restoring privilege
484.350	Traffic infraction described	484.750	Appeal of order barring vehicle operation
484.355	Classification of traffic infractions		
484.360	Fines for traffic infractions		
484.365	Class A traffic infraction as misdemeanor because of prior conviction		
484.370	Penalty for offense not otherwise classified		
484.375	Trial; burden of proof; pretrial discovery		
484.380	Disclosure of prior conviction to jury		

VEHICLES AND SMALL WATERCRAFT

PENALTIES

484.990 Penalties

CROSS REFERENCES

Application of ORS 135.230 to 135.290 to certain traffic offenses, 135.295

Arrest for major traffic offense when officer has probable cause to believe person committed offense, 133.310

Court rules for traffic offenses, 1.520

Drugs and alcohol, local laws prohibited except traffic regulation and regulation identical to certain state laws, 430.325

Effect of unvacated forfeiture of bail for purposes of revoking or suspending license, 482.435

Implied consent law, 487.805 to 487.835

Offense procedure, admissibility in subsequent civil actions, 41.905

Program for persons convicted of driving under influence of alcohol; crimes committed while intoxicated, 430.850 to 430.880

Schoolgrounds, regulation of use of vehicles, 332.445

484.010

Juvenile court order remanding certain motor vehicle offenses involving children to other courts, 419.533

Police procedures when vehicle identification removed, 481.438

484.020

Juvenile court, handling of motor vehicle offenses, 419.537 to 419.541

484.030

Juvenile court, transfer of certain proceedings involving children, 419.478

484.040

Juvenile proceeding, venue, 419.480

484.125

Motorist service clubs, Ch. 751

484.250

Action by Department of Revenue against judicial officer for delinquent payment of certain moneys, 30.830

Disposition of moneys collected by the district court in criminal cases generally, 156.650

TRAFFIC OFFENSE PROCEDURES

484.010 Definitions for ORS 484.010 to 484.435. As used in ORS 1.510, 1.520 and 484.010 to 484.435, 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) Reckless driving as defined in ORS 487.550.

(b) Driving while under the influence of intoxicants, as defined in ORS 487.540.

(c) 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 subsection (1) and paragraphs (a) and (b) of ORS 483.604.

(d) Operating a motor vehicle while the operator's or chauffeur's license is suspended or revoked, as defined in ORS 487.560.

(e) Fleeing or attempting to elude a police officer, as defined in ORS 487.555.

(6) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of 10 or more successive days.

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

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

(9) "State traffic offense" means a violation of any provision of law for which a criminal or traffic infraction penalty is provided in

ORS 1.510 and ORS chapters 481, 482, 483, ORS 484.740, 485.010 to 485.420, 485.990 and ORS chapter 486, 487 or 767 and includes violation of ORS 390.790.

(10) "Traffic offense" includes an offense mentioned in subsections (4), (5) and (9) of this section. [1959 c.664 §1; 1963 c.510 §4; subsection (6) enacted as 1967 c.579 §3; 1969 c.696 §3; 1973 c.798 §2a; 1973 c.836 §353; 1975 c.451 §151; 1977 c.882 §30; 1979 c.819 §5]

484.020 Traffic offense proceedings to conform to ORS 484.010 to 484.435. All proceedings concerning traffic offenses shall conform to the provisions of ORS 1.510, 1.520 and 484.010 to 484.435. [1959 c.664 §2; 1973 c.836 §354]

484.030 Jurisdiction of courts; authority to prosecute. (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 criminally negligent homicide 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 any felony.

(3) The city attorney shall have authority to prosecute in the name of the state for a state traffic offense committed within the jurisdictional authority of the city as provided in subsection (2) of this section, and in any appeal therefrom, except as provided in ORS 180.060. [1959 c.664 §3(1), (2), (3); 1971 c.743 §395; 1975 c.451 §169]

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 131.305 to 131.415. 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; 1973 c.836 §355]

484.100 Authority of police officer to arrest or issue citation. (1) A police officer may arrest or issue a citation to 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 or issue a citation to 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; and

(c) The officer arrests or cites the person immediately upon the conclusion of a continuous pursuit. [1959 c.664 §7; 1963 c.401 §1]

484.105 Authority of police officer to issue citation to driver involved in accident. When a police officer at the scene of a traffic accident has, based upon his personal investigation, reasonable grounds to believe that a driver of a vehicle involved in the accident has, in connection with the accident, committed a traffic offense, the police officer may issue to the driver a citation for that offense without making an arrest. This authority is in addition to any other authority to issue a citation for a traffic offense. [1963 c.448 §3]

484.110 Authority of weighmasters. Any person duly authorized as a weighmaster by the Department of Transportation or any county weighmaster in whose presence is violated any provision of ORS 481.177, 483.502 to 483.536, 483.545, ORS chapter 767 or any reduction of weight or dimension limits imposed pursuant to ORS 487.905 may arrest or issue a citation as provided in ORS 484.120 to 484.170, 484.180 to 484.220 and 484.230 in the same manner as if he were a police officer. [1959 c.664 §17; 1977 c.510 §1; 1977 c.718 §7]

484.120 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 481.177, 483.502 to 483.536, 483.545 and 487.905; or

(b) There is no accessible magistrate or clerk or deputy clerk authorized by the 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 484.125 or the arrested person's unexpired guaranteed arrest bond certificate, as defined in ORS 743.762, if such card or certificate is acceptable as bail for the offense for which the arrest was made, except that the sum fixed as bail for the offense may be accepted as security for any violation specified in paragraph (a) of subsection (1) of this section by any duly authorized weighmaster.

(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 or clerk or deputy clerk authorized by the 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; 1963 c.401 §2; 1977 c.510 §2; 1977 c.718 §8]

484.125 When automobile association membership card is acceptable as bail. (1) Any automobile association incorporated under the laws of this state may deposit with the State Treasurer the sum of \$2,000 in cash, or in bonds approved by the State Treasurer. When such deposit is made and maintained, the unexpired membership card of any mem-

ber of the association shall be accepted by any magistrate or officer of this state authorized to take bail when tendered as bail by any member of the association arrested for the violation of any motor vehicle law of this state, or traffic ordinance of any city in this state, if the bail in any individual case does not exceed \$50.

(2) If any such member depositing his membership card as bail fails or neglects to appear in court at the time and place required, the magistrate or other officer before whom the case is brought, upon declaring a forfeiture of the bail, shall at once notify the association of the forfeiture, and the amount thereof, by mail. The association shall, within five days after the receipt of such notice, remit the amount of the bail so forfeited to the magistrate or other officer. If such association fails or refuses to remit the bail within that period, the magistrate or other officer having the matter in charge, or the district attorney, shall notify the State Treasurer, who shall thereupon pay the amount of the bail to the officer or magistrate lawfully entitled to receive it, deduct that amount from the amount of deposit with him by such association, and immediately notify such association and require it to deposit a like sum with him. If the association fails or neglects for a period of 10 days so to do, the membership cards of such association shall not thereafter be accepted as bail while the default continues. Upon the payment of the bail by the association, the membership card so deposited shall be immediately returned to such association by the officer who accepted it as bail. [Formerly 483.620]

484.130 Putting up bail, driver's license or other security by defendant. (1) A person brought before a magistrate or clerk or deputy clerk authorized by the 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 or clerk or deputy clerk authorized by the magistrate. The magistrate or clerk or deputy clerk authorized by 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 484.125 or the arrested person's unexpired guaranteed arrest bond certificate, as defined in ORS 743.762, if such card or certificate is accept-

able 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, clerk or deputy clerk authorized by the magistrate shall issue the person a receipt therefor and shall promptly notify the Motor Vehicles Division of the fact. The Motor Vehicles Division shall prepare a form of receipt for use in connection with this subsection and all receipts issued pursuant 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 receipt of the magistrate or clerk or deputy clerk authorized by the magistrate 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 Motor Vehicles Division. Upon receipt by the division, the license shall be suspended for an indefinite period. If the person thereafter makes his appearance before the court, the court shall advise the division of the fact and the division shall thereupon terminate the suspension ordered pursuant to this subsection. [1959 c.664 §9; 1961 c.569 §7; 1963 c.401 §3]

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 743.762 to 743.768 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 ORS 487.540, the magistrate, clerk or deputy clerk authorized by 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 743.765 to any forfeiture or enforcement provision of any statute, charter or ordinance that otherwise applies to bail on their undertaking. [1961 c.569 §2; 1963 c.401 §4; 1975 c.451 §151a]

484.150 Traffic citation requirements; exception. (1) Except for violation of laws governing parking of vehicles, a traffic citation conforming to the requirements of this section shall be used for all traffic infraction offenses, and may be used for any traffic misdemeanor offense in this state. This section does not prohibit the use of a uniform citation:

(a) For offenses other than traffic offenses.

(b) Containing other language in addition to that specified in this section.

(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 information or blanks required by rules of the Supreme Court under ORS 1.525.

(4) The complaint shall contain a form of certificate in which the complaint shall certify, under the penalties provided in ORS 484.990, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. [1959 c.664 §§10, 11; 1963 c.401 §5; 1965 c.588 §2; 1971 c.388 §1; 1973 c.737 §2; 1974 s.s. c.44 §2; 1975 c.451 §152; 1977 c.882 §31; 1977 c.883 §2; 1979 c.477 §4]

484.155 Private person may commence action for traffic offense; complaint; service of summons. (1) A private person may commence an action for a traffic

offense by certifying to the complaint before a magistrate, clerk or deputy clerk of the court. This action will be entered in the court record.

(2) A complaint under subsection (1) of this section shall contain a form of certificate in which the complainant shall certify, under the penalties provided in ORS 484.990, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. A certificate conforming to this section shall be deemed equivalent of a sworn complaint.

(3) When the complaint is certified by a private person, the court shall cause the summons to be delivered to the defendant. The court may require the Oregon State Police, the county sheriff's office or any municipal police force within its jurisdiction to serve the summons as provided in subsection (1) of ORS 484.180. [1963 c.401 §9; 1979 c.477 §5]

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 complainant 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; 1963 c.401 §6]

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 under subsection (4) of ORS 484.150 or under ORS 484.155, signed by the complainant.

(2) The complaint shall be set aside by the court upon motion of the defendant before plea when the complaint does not conform to the requirements of this section. A pretrial ruling on a motion to set aside may be appealed by the state.

(3) Nothing prohibits the court from amending the citation in its discretion. [1959 c.664 §16; 1963 c.401 §7; 1979 c.477 §6]

484.175 Designation of speed in complaint and summons charging violation of basic speed rule. In every charge of violation of the basic speed rule, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the speed designated for the district or location. [1975 c.451 §271b]

484.180 Delivery of summons to person cited; delivery of other parts of citation. (1) An officer issuing the citation shall cause:

(a) The summons to be delivered to the person cited; and

(b) The complaint and abstract of court record to be delivered to the court.

(2) When a warning has been given a person by an officer at the time of an alleged violation of ORS 481.202, subsection (2) of 482.040 or ORS 483.402 to 483.488 and it is subsequently determined that the person had no valid operator's license at the time of the warning or had previously received two or more such warnings within the preceding year, if a complaint is filed for the alleged violation or for violation of ORS 482.040 or 487.560, delivery of summons may be made on the defendant personally or by mail addressed to the defendant's last-known address. Proof of mailing summons under this subsection is sufficient proof of delivery of summons for purposes of ORS 484.230. [1959 c.664 §12(1); 1963 c.401 §10; 1965 c.473 §1; 1975 c.451 §152a; 1977 c.882 §32; 1979 c.477 §7]

484.190 Appearance by defendant. (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. A statement in explanation or mitigation also may be inclosed with the guilty plea.

(3) In any case in which the defendant personally appears in court at the time indicated in the summons, if he desires to plead guilty and the judge accepts the plea, the judge shall hear any statement in explanation or mitigation that the defendant desires to make. [1959 c.664 §12(2), (3); 1975 c.451 §153]

484.200 Effect of statement in explanation or mitigation. 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 hearing date; notice to defendant; license suspension for failure to appear. (1) 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. The notice shall set forth a warning that for failure to appear for the hearing the defendant's license is subject to suspension unless bail is deposited in the amount set in the summons.

(2) If the defendant fails to appear for the hearing at the time and place fixed by the court and no bail has been deposited, the court may notify the Motor Vehicles Division of the defendant's failure to appear. In the notification the court shall certify that notice was given the defendant as prescribed by subsection (1) of this section and that the defendant failed to appear for the hearing. Upon receipt of such notification, together with a fee of \$5, the division shall suspend the defendant's license for an indefinite period. If the defendant thereafter makes his appearance before the court, the court shall notify the division of

the fact and the division shall thereupon terminate the suspension ordered pursuant to this subsection. Notifications by the court to the division shall be in a form prescribed by the division. A suspension ordered under this section shall not be used by the division in any subsequent consideration of the defendant's driving record under ORS 482.450.

(3) As used in this section, "license" has the meaning given that term by ORS 482.010. [1959 c.664 §13(1); 1965 c.588 §1]

484.220 Hearing discretionary with court; exceptions. (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)]

484.222 Impounding vehicles upon certain driver convictions; redemption; suspension of registration; rights of security interest holders. (1) (a) When a person is convicted for driving a motor vehicle while his license is suspended or revoked, the court may order impounded for not more than 120 days from judgment any motor vehicle of which the convicted person is the owner and any motor vehicle which the convicted person is operating at the time of arrest for violation of ORS 487.560. He shall be liable for the expenses incurred in the removal and storage of the vehicle under this subsection, whether or not the vehicle is returned to him. The vehicle shall be returned to the person convicted or the owner only upon payment of such expenses.

(b) If the vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in the impounding order, the vehicle may be disposed of in accordance with ORS 483.380 to 483.396.

(2) (a) When a person is convicted for driving a motor vehicle in violation of ORS 487.560, the court shall order the Motor Vehicles Division to suspend for not more than 120

days the registration required under ORS chapter 481 of any vehicle of which the convicted person is the owner or any vehicle which the convicted person is operating at the time of his arrest. The division shall forthwith suspend the registration and require the owner to return the registration card and plates. If the vehicle has not been impounded and the owner fails to return the registration card and plates to the division within 10 days after the date notice to do so is mailed to him, return receipt requested, the division shall forthwith direct any peace officer to secure possession thereof and return the registration card and plates to the division.

(b) The division shall return the registration card and plates to the owner upon expiration of the period specified by the court in its order provided in paragraph (a) of this subsection upon payment by the owner to the division of a restoration fee of \$10.

(3) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or its registration suspended under this section only if the court is satisfied by clear and convincing evidence that the owner knew or had good reason to know that the convicted person did not have a valid operator's license and knowingly consented to the operation of the motor vehicle by the convicted person.

(4) The authority of the court under this section to impound any motor vehicle shall be subject to the rights of a holder of a security interest under a security agreement executed before an arrest for violation of ORS 487.560, and the vehicle shall be released for the purpose of satisfying a security interest if:

(a) Request in writing is made to the court; and

(b) If the vehicle has been impounded, the security interest holder pays the expenses incurred in removal and storage of the vehicle; and

(c) If the registration of the vehicle has been suspended, the security interest holder takes possession of the vehicle subject to the suspension of the registration remaining in effect against the registered owner. [1967 c.579 §4, 1971 c.501 §1; 1975 c.451 §154]

484.230 Warrant for arrest. (1) If a person cited fails to comply with the provisions of ORS 484.190, or if he fails to appear at any time fixed by the court, a warrant for

his arrest may be issued. A warrant issued by a circuit, district, justice or municipal court may be served, without further indorsement, in any county in this state. If an owner or lessee has been made codefendant as provided in ORS 483.628, a warrant may be issued for the arrest of the owner or lessee.

(2) No 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. Unless a warrant has been issued before the expiration of that period the order of forfeiture shall be deemed the final disposition of the case. [1959 c.664 §14; 1965 c.473 §2; 1975 c.315 §7; 1977 c.746 §13]

484.240 Reports of convictions and bail forfeitures to Motor Vehicles Division. (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 the conviction or bail forfeiture, except for violation of the size and weight limitations provided by ORS 483.502 to 483.536, shall be sent forthwith to the Motor Vehicles Division.

(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 Motor Vehicles Division a certified copy of such judgment. The division 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; 1971 c.162 §1]

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

Department of Revenue, 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 Highway Division weighmaster, to the Department of Revenue, 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, to be credited to the general fund of such county.

(e) If resulting from prosecutions for parking in a winter recreation parking location, to the Department of Revenue, who shall place the money to the credit of the State Highway Fund to be used and expended for the purposes designated by the Oregon Transportation Commission pursuant to ORS 390.795.

(f) 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 Department of Revenue not later than the 10th 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.

(4) Payment of fines, costs and forfeited bail under this section shall be made within the first 20 days of the month following the month in which collected. [1959 c.664 §§20, 21; 1969 c.616 §2; 1971 c.186 §3; 1977 c.263 §7]

484.260 Delinquency in paying monies 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 10th 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]

484.310 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 Payment of fines to violations bureau; exceptions. (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]

TRAFFIC INFRACTIONS

484.350 Traffic infraction described. (1) An offense defined in the Oregon Vehicle Code is a traffic infraction if it is so designated in the statute defining the offense or if the offense is punishable only by a fine, forfeiture, suspension or revocation of a license or other privilege, or other civil penalty.

(2) A person who commits a traffic infraction shall not suffer any disability or legal disadvantage based upon conviction of crime.

(3) Except as ORS 484.170 and 484.405 and other statutes relating to a traffic infraction otherwise expressly provide, the criminal and criminal procedure laws of this state relating to a violation as described in ORS 161.505 and 161.565 apply with equal force and effect to a traffic infraction.

(4) A police officer may exercise the authority granted by ORS 133.310 and 484.100 to arrest an individual for a traffic infraction.

[1975 c.451 §131]

484.355 Classification of traffic infractions. Traffic infractions are classified for the purpose of sentence into the following categories:

- (1) Class A traffic infractions;
- (2) Class B traffic infractions;
- (3) Class C traffic infractions; and
- (4) Class D traffic infractions. [1975 c.451 §132]

484.360 Fines for traffic infractions. (1) Except as otherwise provided in ORS 484.365 or in the statute defining the offense, the penalty for committing a traffic infraction shall be a fine only.

(2) A sentence to pay a fine for a traffic infraction shall be a sentence to pay an amount not exceeding:

- (a) \$1,000 for a Class A traffic infraction.
- (b) \$250 for a Class B traffic infraction.
- (c) \$100 for a Class C traffic infraction.
- (d) \$50 for a Class D traffic infraction.

[1975 c.451 §133]

484.365 Class A traffic infraction as misdemeanor because of prior conviction.

(1) Any Class A traffic infraction, as defined in subsection (3) of this section, shall be prosecuted and be punishable as a Class A misdemeanor if the defendant has been convicted of a Class A traffic infraction, as defined in subsection (3) of this section, or traffic crime within a five-year period immediately preceding the commission of the offense, and the previous conviction was not part of the same transaction as the present offense.

(2) In applying subsection (1) of this section, any conviction of a Class A infraction or a traffic crime as described in subsections (3) and (4) of this section, or a conviction before July 1, 1976, of any of the statutory counterparts of these offenses which occurred within the immediate five-year period before the commission of the present offense, shall be included whether the previous conviction occurred before or after July 1, 1976.

(3) As used in this section, "Class A traffic infraction" means:

(a) Driving while under the influence of intoxicants.

(b) Failure to perform the duties of a driver involved in an accident or collision which results only in damage to the property of another.

(4) As used in this section, "traffic crime" means:

(a) Reckless driving.

(b) Driving a motor vehicle while suspended or revoked.

(c) Failure to perform the duties of a driver involved in an accident or collision which results in injury or death to any person.

(d) Fleeing or attempting to elude a police officer.

(5) A certification by the Motor Vehicles Division that the defendant has been convicted of a Class A traffic infraction or a traffic crime shall be prima facie evidence of a conviction for purposes of subsection (1) of this section. The certificate shall state the charge, the date of conviction and the court in which the conviction occurred. [1975 c 451 §134; 1977

c.882 §34]

484.370 Penalty for offense not otherwise classified. An offense defined in the Oregon Vehicle Code which is not classified as a crime or traffic infraction, or for which a penalty is not otherwise specifically provided, shall be considered a Class A traffic infraction. [1975 c.451 §135]

484.375 Trial; burden of proof; pretrial discovery. (1) The trial of any traffic infraction shall be by the court without a jury. The trial of any traffic infraction shall not commence until the expiration of seven days from the date of arrest or citation for the traffic infraction unless the defendant waives the seven-day period.

(2) The state, municipality or political subdivision shall have the burden of proving the alleged traffic infraction by a preponderance of the evidence.

(3) The pretrial discovery rules in ORS 135.805 to 135.873 apply to traffic infraction cases.

(4) The defendant may not be required to be a witness in the trial of any traffic infraction. [1975 c.451 §137]

484.380 Disclosure of prior conviction to jury. (1) In a prosecution under ORS 484.365, the state, municipality or political subdivision shall plead and prove the previous conviction unless the defendant stipulates to that fact prior to trial. If the defendant so stipulates and the trial is by jury:

(a) The court shall accept the stipulation regardless of whether or not the state, municipality or political subdivision agrees to it;

(b) Evidence of the previous conviction shall be made a part of the record of the case, but shall not be offered or received in the presence of the jury;

(c) No mention of the previous conviction shall be made to the jury by either the court or the state, municipality or political subdivision; and

(d) The court shall not submit the complaint or evidence of the previous conviction to the jury.

(2) Notwithstanding subsection (1) of this section, in a proceeding under ORS 484.365, the state, municipality or political subdivision may offer, and the court may receive, evidence of the previous conviction to impeach the defendant when the evidence of the previous conviction is otherwise admissible for that

purpose. When evidence of the previous conviction has been admitted to impeach the defendant, the state, municipality or political subdivision may comment upon, and the court may give instructions about, the evidence of the previous conviction to the extent that the comments or instructions relate to the impeachment of the defendant. The court also may submit the evidence of the previous conviction to the jury under the aforesaid circumstances. [1975 c.451 §137a]

484.385 Plea agreements limited; rehabilitation option. (1) Notwithstanding ORS 135.405 to 135.445, a person charged with the offense of driving under the influence of intoxicants shall not be allowed to forfeit bail or plead "guilty" or "no contest" to any other offense in exchange for a dismissal of the offense charged. No district attorney shall make any motion and no judge shall enter any order in derogation of this section.

(2) When a person charged with driving while under the influence of intoxicants has not been convicted or found guilty of that offense previously and does not have another charge of driving while under the influence of intoxicants pending against him, the court having original jurisdiction over the case, after the defendant has been adjudicated guilty of the offense, and in addition to those powers conferred upon the court by ORS 484.415, may, with the consent of the defendant, request a diagnostic assessment to determine if the defendant is a problem drinker or alcoholic by a program approved by the Mental Health Division. If a person is determined to be a problem drinker or alcoholic, the court may order a course of treatment or rehabilitation as recommended by the director of the program. The court may condition the order in any manner it considers appropriate to further the end of rehabilitation, but one condition shall be that the person charged not be arrested again for driving while under the influence of intoxicants during the course of the rehabilitation program.

(3) If the defendant successfully completes the rehabilitation program and complies with all of the conditions set forth in the court's order, no other sentence may be imposed for the offense. If the defendant fails to successfully complete the rehabilitation program or to comply with any condition set forth in the court's order, the court shall pronounce judgment upon the offense.

(4) No statement made by the defendant about the offense with which he is charged shall be offered or received in evidence in any criminal or civil action or proceeding arising out of the same conduct which is the basis of the charge of driving while under the influence of intoxicants, if the statement was made during the course of the rehabilitation program and to a person employed by the program.

(5) An order issued under subsection (2) of this section shall be in writing and entitled "DWI Rehabilitation Order." The order shall be made a part of the record of the case; and a certified copy of the order shall be sent promptly after issuance to the Motor Vehicles Division and shall be made a part of the official driver's record. [1975 c.451 §138]

484.390 Counsel for state and defendant. (1) At any trial involving a traffic infraction only, defense counsel shall not be provided at public expense.

(2) At any trial involving a traffic infraction only, the district attorney may aid in preparing evidence and obtaining witnesses but shall not appear unless counsel for the defendant appears. The court shall ensure that the district attorney is given timely notice if defense counsel is to appear at trial.

(3) As used in subsection (2) of this section, "district attorney" includes, where appropriate, a city attorney and county counsel. [1975 c.451 §139; 1977 c.882 §35]

484.395 Former jeopardy, res judicata and collateral estoppel not applicable in traffic infraction cases. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and a traffic infraction as part of the same criminal episode, the prosecution for one offense shall not bar the subsequent prosecution for the other. However, evidence of the first conviction shall not be admissible in any subsequent prosecution for the other offense.

(2) Notwithstanding ORS 43.130 and 43.160, no plea, finding or proceeding upon any traffic infraction shall be used for the purpose of res judicata or collateral estoppel, nor shall any plea, finding or proceeding upon any traffic infraction be admissible as evidence, in any civil proceeding. [1975 c.451 §140]

484.400 Use of prior conviction to impeach. A conviction before or after June 27, 1975, of any of the statutory counterparts of offenses designated as traffic infractions in

chapter 451, Oregon Laws 1975, shall not be used to impeach the character of a witness in any criminal or civil action or proceeding.

[1975 c.451 §140a]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "this Act" in 484.400. Chapter 451, Oregon Laws 1975, enacted into law and amended the ORS sections which may be found by referring to the 1975 Comparative Section Table located following the Index in volume 6 of Oregon Revised Statutes (1975 Replacement Parts).

484.405 Appeal. An appeal from a judgment involving a traffic infraction, except a traffic infraction prosecuted and made punishable as a Class A misdemeanor pursuant to ORS 484.365, may be taken by either party:

(1) From a proceeding in justice's court, as provided in ORS chapter 53;

(2) From a proceeding in district court, as provided in ORS chapter 46; or

(3) From a proceeding in circuit court, as provided in ORS 19.005 to 19.026 and 19.029 to 19.200. [1975 c.451 §140b]

484.410 [1959 c.664 §26; 1967 c 604 §11; 1967 c.620 §15; renumbered 1 520]

484.415 Trial judge's authority to order suspension of license, permit or right to apply. (1) If a defendant is convicted of any traffic offense and fails or refuses to pay a fine imposed by the judge or to comply with any condition upon which payment of the fine or any part of it was suspended, the judge, in addition to or instead of any other method authorized by law for enforcing a court order, may order the defendant's driver's license, permit or right to apply to be suspended or may limit the defendant's driving under conditions fixed by the court until he complies with the conditions of the order.

(2) If a defendant is convicted of a traffic crime or a Class A traffic infraction, in addition to any fine or imprisonment authorized by law, including probation and suspension of imposition or execution of any sentence upon conditions ordered by the court, the judge may also:

(a) Order the defendant's driver's license, permit or right to apply to be suspended until he successfully completes a defensive driving or other appropriate driver improvement course conducted by the Motor Vehicles Division, or other rehabilitative program;

(b) Order the defendant's driver's license, permit or right to apply to be suspended for

not more than one year or for more than one year if the mandatory period of suspension is more than one year; or

(c) Order the defendant to successfully complete a defensive driving or other appropriate driver improvement course conducted by the Motor Vehicles Division, or other rehabilitative program, within a period of time fixed by the judge, with the penalty for failure to comply with the order being a future suspension of the defendant's driver's license, permit or right to apply, or other future limitation on the defendant's driving.

(3) If the trial judge places any limitations on the defendant's driving under subsection (1) or (2) of this section, the judge shall immediately advise the Motor Vehicles Division in writing. Any limitation ordered by the judge shall be made part of the defendant driver's record and shall remain in effect until the division is notified in writing by the court that the limitation has ended.

(4) If the trial judge orders a suspension under subsection (1) of this section or paragraph (a) or (b) of subsection (2) of this section, or if the conviction will result in mandatory revocation or suspension of the defendant's license or permit under ORS 482.430, the judge shall take possession of the license or permit and issue an order of suspension. If mandatory suspension will result from the conviction, the court shall suspend the license or permit for the required period. The judge shall immediately send the license or permit and a copy of any order entered by the court to the Motor Vehicles Division. Any suspension or revocation of the defendant's license or permit shall become effective on the date on which the court takes possession or orders suspension of the license or permit.

(5) If the judge ordered the suspension under subsection (1) of this section, upon payment of the fine as ordered, the judge shall immediately send a copy of an order to reinstate the defendant's license or permit to the division.

(6) If the judge ordered the suspension under paragraph (a) of subsection (2) of this section, when the defendant successfully completes a defensive driving course or other rehabilitative program, the division shall reinstate the defendant's license, permit or right to apply, return any license or permit to the defendant and notify the judge in writing that the defendant has complied with the judge's order.

(7) Upon receipt of any order entered by a judge under this section, the division shall immediately make proper entry in its files and records and take other action, as necessary, to implement the judge's order. [1975 c.451 §141; 1977 c.882 §36]

484.420 [1959 c.664 §27; 1967 c.604 §12; 1967 c.620 §16; renumbered 1.510]

484.425 Court ordered suspension to run concurrently. A suspension of a license or permit ordered by the court under ORS 484.415 shall run concurrently with any mandatory suspension ordered by the division under ORS 482.430 and arising out of the same conviction. [1975 c.451 §142]

484.430 [1963 c.8 §1; 1967 c.604 §13; renumbered 1.530]

484.435 Searches and seizures restricted in certain traffic infraction arrests. (1) Searches and seizures otherwise authorized by law incidental to an arrest shall not be authorized if the arrest is on a charge of committing a Class B, C or D traffic infraction unless the arrest is a full custody arrest in which the person arrested is to be lodged in jail, and the decision to place the person arrested under full custody arrest is based upon specific articulable facts justifying his being lodged in jail rather than being given a traffic citation as provided in this chapter and released.

(2) Nothing in subsection (1) of this section shall be construed to forbid a frisk for dangerous or deadly weapons authorized under ORS 131.605 to 131.625. [1975 c.451 §143]

TRAFFIC SAFETY COMMISSION

484.510 "Commission" defined. As used in ORS 484.510 to 484.600, "commission" means the Traffic Safety Commission created by ORS 484.520. [1967 c.499 §1]

484.520 Traffic Safety Commission; appointment of members; compensation and expenses. (1) There is created within the executive office of the Governor the Traffic Safety Commission. The commission shall consist of five members appointed by the Governor and to serve at the pleasure of the Governor.

(2) The Governor shall appoint one member of the commission as chairman and another member as vice chairman.

(3) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495. [1967 c.499 §2; 1969 c.469 §1]

484.530 [1967 c.499 §3, repealed by 1969 c.469 §5]

484.540 [1967 c.499 §4; 1969 c.314 §56; repealed by 1969 c.469 §5]

484.550 Executive secretary; staff. (1) The Governor shall appoint a person to serve as executive secretary of the commission. The executive secretary is the chief administrative officer of the commission. He shall keep a complete record of all meetings of the commission.

(2) Subject to the approval of the Governor, the executive secretary shall appoint assistants, consultants, clerical staff and other employees needed to carry out the purposes of ORS 484.510 to 484.600. [1967 c.499 §5; 1969 c.469 §3]

484.560 Governor's authority to carry out ORS 484.510 to 484.600. Subject to subsection (2) of ORS 484.550, the Governor is authorized to incur the expenses he considers necessary to carry out ORS 484.510 to 484.600. [1967 c.499 §6]

484.570 Duties of commission. The commission shall:

(1) Organize, plan and conduct a state-wide highway safety program.

(2) Coordinate generally activities and programs of the several departments, divisions or agencies of the state engaged in promoting highway safety.

(3) Provide highway safety information and publicity to all appropriate media of information and develop other means of public information.

(4) Cooperate fully with all national, local, public and private agencies and organizations interested in the promotion of highway safety.

(5) Serve as a clearinghouse for all highway safety materials and information used throughout the state.

(6) Cooperate in promoting research, special studies and analysis of problems concerning highway safety.

(7) Make studies and suitable recommendations to the legislature concerning safety regulations and laws. [1967 c.499 §7; 1969 c.469 §4; 1975 c.605 §25]

484.580 City and county highway safety programs authorized. Any city or county may participate in the highway safety program and do all things necessary to secure the benefits available under ORS 484.510 to 484.600 and under the Federal Highway Safety Act of 1966 and any amendments thereto. [1967 c.499 §8]

484.590 Review of city and county highway safety programs; function of Governor. (1) The commission shall review plans and applications for participation by counties and cities in the Federal Government highway safety programs conducted under the Federal Highway Safety Act of 1966 and any amendments thereto. It shall make recommendations to the Governor regarding the approval of such plans and applications. The Governor shall, considering the recommendations of the commission, approve such plans or applications for funds in accordance with the uniform standards of the Federal Government regarding such programs. Subject to any conditions of the grant, the Governor shall disburse any funds received from the Federal Government or any of its agencies for county and city highway safety programs.

(2) The Governor, with the advice of the commission, may apply for, accept, receive and disburse grants available from the Federal Government or any of its agencies to carry out approved state highway safety programs conducted under the Federal Highway Safety Act of 1966 and the amendments thereto.

(3) The Governor may accept funds from other sources and enter into such contracts or agreements and do all things necessary to receive such funds for the purpose of carrying out the provisions of ORS 484.510 to 484.600. However, funds shall not be accepted which are subject to a restriction or a condition that is in conflict with any law of this state. [1967 c.499 §9]

484.595 Traffic Safety Commission Account. There hereby is established in the General Fund of the State Treasury an account to be known as the Traffic Safety Commission Account. All money credited to the account hereby is appropriated continuously for and shall be used to carry out the purposes of ORS 484.510 to 484.600. [1969 c.474 §5]

484.600 Highway Safety Trust Account. There hereby is established in the General Fund of the State Treasury an account to be known as the Highway Safety

Trust Account. All money received by the Governor pursuant to ORS 484.590 shall be paid into the State Treasury and credited to the Highway Safety Trust Account. All money in such account hereby is appropriated continuously for and shall be used by the Governor in carrying out the purposes for which the funds were received. [1967 c.499 §10]

HABITUAL OFFENDERS

484.700 Short title. ORS 484.700 to 484.750 may be cited as the "Habitual Traffic Offenders Act." [1973 c.301 §12]

484.705 Definitions for ORS 484.700 to 484.750. (1) As used in ORS 484.700 to 484.750, unless the context requires otherwise, "habitual offender" means any person, resident or nonresident, who within a five-year period, has been convicted of or forfeited bail for the number and kinds of traffic offenses described by paragraph (a) or (b) of this subsection, as evidenced by the records maintained by the division.

(a) Three or more of any one or more of the following offenses:

(A) Manslaughter or criminally negligent homicide resulting from the operation of a motor vehicle;

(B) Driving while under the influence of intoxicants as defined by ORS 487.540;

(C) Driving a motor vehicle while his license, permit or privilege to drive has been suspended or revoked as defined by ORS 487.560;

(D) Reckless driving as defined in ORS 487.550;

(E) Failure of the driver of a motor vehicle involved in an accident resulting in the death of or injury to any person or damage to any vehicle being driven or attended by a person to perform the duties required by subsections (1) and (2) of ORS 483.602; or

(F) Eluding a police officer as provided in ORS 487.555.

(b) Twenty or more of any one or more offenses involving the operation of a motor vehicle which violations are required to be reported to the division, including offenses enumerated in paragraph (a) of this subsection; however, no person shall be considered a habitual offender under this paragraph until his 21st conviction or bail forfeiture within a five-year period when the 20th conviction or bail forfeiture occurs after a lapse of two

years or more from the last preceding conviction or bail forfeiture.

(2) The offenses included in paragraphs (a) and (b) of subsection (1) of this section include city traffic offenses, as defined by ORS 484.010, and offenses under any federal law, or any law of another state, including subdivisions thereof, substantially conforming thereto but do not include nonmoving offenses as defined in ORS 483.380 to 483.545, 487.095, 487.155, 487.575, 487.580, 487.605, 487.615, 487.630, 487.650, 487.710, 487.730, 487.839, 487.841, 487.843, 487.895, 487.900, 487.905, 487.915 to 487.925 and licensing violations provided in ORS chapters 481 and 482.

(3) As used in ORS 484.700 to 484.750, "division" means the Motor Vehicles Division of the Department of Transportation or a similar agency of another state. [1973 c.301 §2, 3; 1975 c 451 §155; 1977 c.882 §37]

484.710 Policy. It is hereby declared to be the policy of this state:

(1) To provide maximum safety for all persons who travel or otherwise use the public highways of this state;

(2) To deny the privilege of operating motor vehicles on the public highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of her courts and the statutorily required acts of her administrative agencies; and

(3) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and her political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws. [1973 c.301 §1]

484.715 Action by division upon receipt of abstract of conviction or bail forfeiture relating to traffic offense; meeting with licensee. When the division receives an abstract of the conviction or bail forfeiture, under ORS 484.240, and the conviction or bail forfeiture is the second one of those described by paragraph (a) of subsection (1) of ORS 484.705 for the convicted person, the division immediately shall notify the licensee and offer him an opportunity of an advisory meeting with a representative of the division in the county wherein the licensee resides. At such a

meeting, the division shall advise the licensee of the provisions of ORS 484.700 to 484.750 and of the availability of educational programs for driver improvement. [1973 c.301 §4]

484.720 Administrator to certify to district attorneys operating records of habitual offenders; proceedings against habitual offenders. (1) The administrator of the division shall certify in triplicate an abstract of the operating record as maintained by the division, of a habitual offender to the district attorney of the county in which the person resides, as his residence is shown by the records of the division. If the person is not a resident of this state, the record shall be certified to the Attorney General. The certified abstract may be admitted in evidence and shall be prima facie evidence that the person named therein was duly convicted of each offense shown by the abstract. If such person denies any of the facts as stated therein, he shall have the burden of proving that the fact is untrue.

(2) The district attorney upon receiving the abstract shall forthwith file a complaint against the person named therein in the circuit court for the county in which such person resides, charging him with being a habitual offender. If the person is a nonresident of this state, the Attorney General shall file such complaint in the Circuit Court for Marion County. [1973 c.301 §5]

484.725 Order to show cause why habitual offender should not be barred from vehicle operation; service of order; procedure for review of convictions. (1) The court in which the complaint is filed shall enter an order, which incorporates the abstract and is directed to the person named therein, to show cause why the person should not be barred as a habitual offender from operating a motor vehicle on the highways of this state. A copy of the show cause order shall be served on the person named therein in the manner prescribed for the service of summons in a civil action.

(2) If the person denies having been convicted of any offense necessary for a holding that the person is a habitual offender, and if the court cannot, on the evidence available to it, make a determination of the issue, the court may certify the issue to the court in which the conviction was made. The court to which the certification is made shall forthwith conduct a hearing to determine the issue and send a certified copy of its final order deter-

mining the issue to the court in which the complaint was filed. [1973 c.301 §6; 1979 c.284 §159]

484.730 Dismissal of proceedings brought against innocent persons; order to habitual offender not to operate vehicles and to surrender operating licenses and permits. If the court finds that the person before the court is not the person named in the abstract, or that he is not a habitual offender, the proceeding shall be dismissed; but if the court finds that the person before the court is the person named in the abstract and that the person is a habitual offender, the court shall so find and by appropriate order direct the person not to operate a motor vehicle on the highways of this state and to surrender to the court all licenses or permits to operate a motor vehicle on the highways of this state for disposal in accordance with ORS 482.470. The clerk of the court shall file with the division a copy of the order whereupon the division shall forthwith revoke the license of the person to operate motor vehicles. [1973 c.301 §7]

484.735 Limitation on issuance of operating license to habitual offenders. (1) Except as provided in subsection (2) of this section, a license to operate motor vehicles in this state shall not be issued to a habitual offender:

(a) For a period of 10 years after the date of the order of the court finding a person to be a habitual offender; and

(b) Until the privilege of the person to operate a motor vehicle in this state has been restored by order of a court of record entered in a proceeding as provided by ORS 484.745.

(2) A one-year, renewable probationary license may be issued to a habitual offender if he:

(a) Successfully completes a defensive driving course conducted by the division;

(b) Continually satisfies the conditions of the probationary license; and

(c) Submits a report of a diagnostic examination conducted by a private physician showing to the satisfaction of the State Health Officer that he is physically and mentally competent to drive.

(3) The conditions of a probationary license shall include that if a habitual offender

is convicted of more than one moving violation within any 12-month period the probationary license shall be revoked and may not be reinstated for one year from the date of last conviction.

(4) The division may establish by rule additional conditions of a probationary license. [1973 c.301 §8]

484.740 Effect of operating vehicle by person under court order to refrain from vehicle operation. Except as provided in subsection (2) of ORS 484.735, it shall be unlawful for any person to operate a motor vehicle in this state while the order of the court prohibiting such operation remains in effect. A person who violates this section commits a Class C felony. [1973 c.301 §9; 1977 c.800 §2]

484.745 Petition for restoration of privilege to operate vehicle by habitual offender; terms and conditions of restoring privilege. At the expiration of 10 years after the date of any final order finding a person to be a habitual offender the person may petition any court of record in the county in which he then resides, for restoration of his privilege to operate a motor vehicle in this state. Upon such petition, and for good cause shown, the court may, in its discretion, restore to the person the privilege to operate a motor vehicle in this state upon such terms and conditions as the court may prescribe, subject to other provisions of law relating to the issuance of operators' or chauffeurs' licenses. [1973 c.301 §10]

484.750 Appeal of order barring vehicle operation. An appeal may be taken from any final action or order of a court entered under ORS 484.700 to 484.750 as provided in civil cases. [1973 c.301 §11]

PENALTIES

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 (10) of ORS 484.010, knowingly certifies falsely to the matters set forth therein commits a Class A misdemeanor. [1959 c.664 §19, 1975 c.451 §156]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel