Chapter 153

1983 REPLACEMENT PART

Infraction Procedures

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INFRACTIONS GENERALLY

153.110 Persons who may enforce infractions; issuance of citation; arrest prohibited. (1) Persons specifically authorized under law and all peace officers of this state or of any political subdivision thereof have jurisdiction of and may enforce infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990.

(2) Any person authorized to enforce infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990 may issue a citation to any person who violates those infractions. If the person to be issued a citation is a firm, corporation or other organization, issuance of a citation to any employe, agent or representative thereof shall be sufficient to confer jurisdiction.

(3) Any person authorized to issue citations pursuant to this section may not arrest for violation of the infraction but may detain any individual reasonably believed to have committed a violation, or any employe, agent or representative of a firm, corporation or organization reasonably believed to have committed a violation, only so long as is necessary to determine, for the purposes of issuing a citation, the identity of the violator and such additional information as is appropriate for law enforcement agencies in the state. [1981 c.692 §11]

153.120 Citation requirements; delivery of summons to person cited; delivery of other parts of citation. (1) A citation issued pursuant to ORS 153.110 shall comply with the requirements of ORS 8.665, 153.110 to 153.310 and 153.990.

(2) The authorized person issuing a citation under ORS 153.110 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. [1981 c.692 §12]

153.130 Uniform citation. (1) Except as otherwise specifically provided for an infraction, a uniform citation conforming to the requirements of this section shall be used for all infraction offenses subject to ORS 8.665, 153.110 to 153.310 and 153.990. This section does not prohibit the use of a uniform citation:

(a) For offenses other than infraction offenses subject to ORS 8.665, 153.110 to 153.310 and 153.990.

(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 153.990, 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. [1981 c.692 §13]

153.140 Minimum requirements for summons. A summons in an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 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. [1981 c.692 §15]

153.150 Minimum requirements for complaint. (1) Except as provided in this section, a complaint in an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 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 ORS 153.130, 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. [1981 c.692 §16]

153.160 Defendant's appearance; bail; request for hearing; statement; guilty plea. (1) For infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990, 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;

(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.

(2) In any case in which the defendant personally appears in court at the time indicated in the summons, if the defendant 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. [1981 c.692 §17]

153.170 Statement as waiver of hearing and consent to judgment; bail forfeiture. If a defendant has submitted to the court any written statement in explanation or mitigation under ORS 153.160, the statement constitutes a waiver of hearing and consent to judgment. The court may declare a forfeiture of bail on the basis of the statement and any testimony or written statement of the person issuing the citation or other person which may be presented to the court. [1981 c.692 §18]

153.180 Fixing hearing date; notice to defendant; waiver. If the defendant requests a hearing under ORS 153.160, or if pursuant to ORS 153.190, 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. [1981 c.692 §19]

153.190 Hearing discretionary; powers of court on hearing and without hearing. For infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990, the court may direct that a hearing be held or 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. No fine may be imposed in excess of the bail deposited by the defendant unless a hearing is held. [1981 c.692 §20]

153.200 Warrant for arrest; time limit on issuance; effect of failure to issue warrant. (1) If a person cited under ORS 153.120 fails to comply with the provisions of ORS 153.160, or if the person fails to appear at any time fixed by the court, a warrant for the arrest of the person 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.

(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. [1981 c.692 §21]

153.210 Proceedings to conform to ORS 153.110 to 153.310. All proceedings concerning infractions under ORS 8.665, 153.110 to 153.310 and 153.990 shall conform to the provisions of ORS 1.510, 1.520, 8.665, 153.110 to 153.310 and 153.990. [1981 c.692 §22]

153.220 Jurisdiction of courts. (1) A circuit or district court has concurrent jurisdiction of all infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990.

(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 infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990.

(3) The city attorney shall have authority to prosecute in the name of the state for an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 that is committed within the jurisdictional authority of the city as provided in this section, and in any appeal therefrom, except as provided in ORS 180.060. [1981 c.692 §23]

153.230 Venue where action may be commenced. (1) An action for an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 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.

(3) If the offense is committed on any body of water located in, or adjacent to, two or more counties or forming the boundary between two or more counties, trial for the offense may be held in any nearby county bordering on the body of water. [1981 c.692 §24]

153.240 Trial without jury; commencement; burden of proof; pretrial discovery; defendant as witness; proof of culpable mental state not element. (1) The trial of any infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 shall be by the court without a jury.

(2) The trial of any infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 shall not commence until the expiration of seven days from the date of citation for the infraction unless the defendant waives the seven-day period.

(3) The state, municipality or political subdivision shall have the burden of proving the alleged infraction under ORS 8.665, 153.110 to 153.310 and 153.990 by a preponderance of the evidence.

(4) The pretrial discovery rules in ORS 135.805 to 135.873 apply to infraction cases under ORS 8.665, 153.110 to 153.310 and 153.990.

(5) The defendant may not be required to be a witness in the trial of any infraction under ORS 8.665, 153.110 to 153.310 and 153.990.

(6) Proof of a culpable mental state is not an element of an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990. [1981 c.692 §25]

153.250 Defense counsel not provided at public expense; when prosecuting attorney may appear; notice if defense counsel to appear. (1) At any trial involving an infraction under ORS 8.665, 153.110 to 153.310 and 153.990 only, defense counsel shall not be provided at public expense.

(2) At any trial involving an infraction under ORS 8.665, 153.110 to 153.310 and 153.990 only, the prosecuting attorney may aid in preparing evidence and obtaining witnesses but shall not appear unless counsel for the defendant appears. The court shall insure that the prosecuting attorney is given timely notice if defense counsel is to appear at trial. As referred to in this subsection, the prosecuting attorney includes the district attorney, a city attorney or a county counsel, as appropriate. [1981 c.692 §26]

153.260 Prosecution of crime not bar to prosecution for infraction; admissibility of conviction or infraction in subsequent proceedings. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 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 infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 shall be used for the purpose of res judicata or collateral estoppel, nor shall any plea, finding or proceeding upon any infraction be admissible as evidence, in any civil proceeding. [1981 c.692 §27]

153.270 When infraction occurs; effect of conviction; criminal procedures apply to prosecution of infraction; conviction cannot be used to impeach in any other action. (1) An offense is an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 if it is so designated in the statute defining the offense and 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 an infraction under ORS 8.665, 153.110 to 153.310 and 153.990 shall not suffer any disability or legal disadvantage based upon conviction of crime.

(3) Except as otherwise specifically provided in statutes relating to an infraction under ORS 8.665, 153.110 to 153.310 and 153.990, the crimi-

nal 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 an infraction under ORS 8.665, 153.110 to 153.310 and 153.990.

(4) A judgment that a person has committed an infraction under ORS 8.665, 153.110 to 153.310 and 153.990 shall not be used to impeach the character of a witness in any criminal or civil action or proceeding. [1981 c.692 §8]

153.280 Appeal. An appeal from a judgment involving an infraction under ORS 8.665, 153.110 to 153.310 and 153.990 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. [1981 c.692 §28]

153.290 Infractions Violations Bureau; duties and powers. (1) Any court, when it determines that the efficient disposition of its business and the convenience of persons charged so requires, may establish an Infractions 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 Infractions Violations Bureau.

(2) The violations clerk shall accept written appearance, waiver of trial, plea of guilty and payment of fine and costs in infraction cases under ORS 8.665, 153.110 to 153.310 and 153.990, subject to any limitations set forth in this section and ORS 153.300. The violations clerk shall serve under the direction and control of the court appointing the clerk.

(3) The court shall by order designate the infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990 that are within the authority of the violations clerk. Such offenses shall not include any misdemeanors or felonies.

(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. [1981 c.692 §29]

153.300 Violation procedure; effect of previous infractions. (1) Any person charged with any infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 that is within the authority of the violations clerk under ORS 153.290, upon signing an appearance, may:

(a) Enter a plea of guilty and waiver of trial; and

(b) Pay the clerk the fine established for the offense charged, and costs.

(2) A person who has been found guilty of, or who has signed a plea of guilty to, one or more previous infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990 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. [1981 c.692 §30]

153.310 Schedule of penalties. (1) Except as otherwise provided in the statute defining the offense, the penalty for committing an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 shall be a fine only.

(2) Infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990 are classified for the purpose of sentence into the following categories:

(a) Class A infractions; and

(b) Class B infractions.

(3) A sentence to pay a fine for an infraction subject to ORS 8.665, 153.110 to 153.310 and 153.990 shall be a sentence to pay an amount not exceeding:

(a) $500 for a Class A infraction.

(b) $100 for a Class B infraction. [1981 c.692 §9]

BOATING INFRACTIONS

153.325 Boating infraction described; effect of conviction; enforcement. (1) A boating offense defined in ORS 488.005 is a boating 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 boating infraction shall not suffer any disability or legal disadvantage based upon conviction of crime.

(3) Except as ORS 153.345 and 153.415 and other statutes relating to a boating 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 boating infraction.

(4) A police officer may exercise the authority granted by ORS 133.310 and 153.330 to arrest an individual for a boating infraction. [1981 c.626 §5]

153.330 Peace officer authorized to arrest or issue citation for boating offense; private person may commence action. (1) A peace officer may arrest or may issue a citation to a person for a boating offense.

(2) A private person may commence an action for a boating offense as provided by ORS 153.335 (4). [Formerly 488.210]

153.335 Boating citation requirements. (1) A citation conforming to the requirements of this section shall be used for all boating 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 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 complainant shall certify, under the penalties provided by ORS 488.995, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. The certification if made by a peace officer need not be made before a magistrate or any other person. A private person shall certify before a magistrate, clerk or deputy clerk of the court and this action will be entered in the court record. A certificate conforming to this section shall be deemed equivalent of a sworn complaint.

(5) The complaint shall be set aside by the court upon the motion of the defendant before plea when it does not conform to the requirements of this section. However, this section does not prohibit the use of a uniform citation for other offenses in addition to boating offenses. [Formerly 488.220]

153.340 Minimum requirements for summons. A summons in a boating 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. [Formerly 488.230]

153.345 Minimum requirements for complaint. A complaint in a boating offense is sufficient if it contains the following:

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

(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 certificate as provided in ORS 153.335 (4), signed by the complainant. [Formerly 488.240]

153.350 Delivery of summons to person cited; delivery of other parts of citation. An officer issuing the citation shall cause the summons to be delivered to the person cited and shall cause the complaint and abstract of court record to be delivered to the court. When the complaint is certified by a private person the court shall cause the summons to be delivered to the defendant. [Formerly 488.250]

153.355 Defendant's appearance; bail; request for hearing; statement; guilty plea. (1) The defendant shall appear in court at the time mentioned in the summons if the citation is for:

(a) A major boating offense.

(b) Any felony.

(c) A violation of ORS 488.052.

(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. [Formerly 488.260]

153.360 Statement as waiver of hearing and consent to judgment; bail forfeiture. If a defendant has submitted to the court a written statement as provided in ORS 153.355 (2)(b), 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. [Formerly 488.270]

153.365 Fixing hearing date; notice to defendant; waiver. If the defendant requests a hearing, or if pursuant to ORS 153.370 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. [Formerly 488.280]

153.370 Hearing discretionary; powers of court on hearing and 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. [Formerly 488.290]

153.375 Warrant for arrest; time limit on issuance; effect of failure to issue warrant. (1) If a person cited fails to comply with the provisions of ORS 153.355, 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 or justice court may be served, without further indorsement, in any county in this state.

(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. [Formerly 488.300]

153.380 Proceedings to conform to ORS 153.325 to 153.440. All proceedings concerning boating offenses shall conform to the provisions of ORS 1.510, 1.520, 153.325 to 153.440 and ORS chapter 488. [1981 c.626 §6]

153.385 Jurisdiction of courts. (1) A circuit or district court has concurrent jurisdiction of all state boating 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 boating 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 boating offense committed within the jurisdictional authority of the city as provided in this section, and in any appeal therefrom, except as provided in ORS 180.060. [1981 c.626 §7]

153.390 Venue for boating offense. (1) An action for a state boating 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.

(3) If a boating offense is committed on any body of water located in, or adjacent to, two or more counties or forming the boundary between two or more counties, trial for the offense may be held in any nearby county bordering on the body of water. [1981 c.626 §8]

153.395 Trial without jury; commencement; burden of proof; pretrial discovery; defendant as witness. (1) The trial of any boating infraction shall be by the court without a jury.

(2) The trial of any boating infraction shall not commence until the expiration of seven days from the date of arrest or citation for the boating infraction unless the defendant waives the seven-day period.

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

(4) The pretrial discovery rules in ORS 135.805 to 135.873 apply to boating infraction cases.

(5) The defendant may not be required to be a witness in the trial of any boating infraction. [1981 c.626 §10]

153.400 Defense counsel not provided at public expense; when prosecuting attorney may appear; notice if defense counsel to appear. (1) At any trial involving a boating infraction only, defense counsel shall not be provided at public expense.

(2) At any trial involving a boating infraction only, the prosecuting attorney may aid in preparing evidence and obtaining witnesses but shall not appear unless counsel for the defendant appears. The court shall insure that the prosecuting attorney is given timely notice if defense counsel is to appear at trial. As referred to in this subsection, the prosecuting attorney includes the district attorney, a city attorney or a county counsel, as appropriate. [1981 c.626 §11]

153.405 Prosecution of crime not bar to prosecution for infraction; admissibility of conviction or infraction in subsequent proceedings. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and a boating 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 boating infraction shall be used for the purpose of res judicata or collateral estoppel, nor shall any plea, finding or proceeding upon any boating infraction be admissible as evidence, in any civil proceeding. [1981 c.626 §12]

153.410 Effect of conviction on impeachment of witness. A conviction before or after November 1, 1981, of any of the statutory counterparts of offenses designated as boating infractions in ORS 153.325 to 153.440 and ORS chapter 488, shall not be used to impeach the character of a witness in any criminal or civil action or proceeding. [1981 c.626 §13]

153.415 Appeal. An appeal from a judgment involving a boating infraction 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. [1981 c.626 §14]

153.420 Construction. (1) ORS 153.325 to 153.440 and ORS chapter 488 govern the construction of and punishment for any boating offense defined in ORS 153.325 to 153.440 and ORS chapter 488 and committed after November 1, 1981, the construction and application of any defense to a prosecution for such an offense and any administrative proceedings authorized or affected by ORS 153.325 to 153.440 and ORS chapter 488.

(2) ORS 153.325 and 153.380 to 153.440 do not apply to or govern the construction of or punishment for any boating offense committed before November 1, 1981, or the construction and application of any defense to a prosecution for such an offense.

(3) When all or part of a statute in ORS 153.325 to 153.440 and ORS chapter 488 is amended or repealed, the statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing Act.

(4) The provisions of ORS 153.325 and 153.380 to 153.440 do not impair or render ineffectual any court or administrative proceedings or procedural matters which occurred before November 1, 1981. [1981 c.626 §15]

153.425 Boating Violations Bureau; duties and powers. (1) Any court, when it determines that the efficient disposition of its business and the convenience of persons charged so requires, may establish a Boating 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 Boating Violations Bureau.

(2) The violations clerk shall accept written appearance, waiver of trial, plea of guilty and payment of fine and costs in boating offense cases, subject to the limitations set forth in this

section and ORS 153.430. The violations clerk shall serve under the direction and control of the court appointing the clerk.

(3) The court shall by order designate the boating offenses within the authority of the violations clerk. Such offenses shall not include any major boating 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. [1981 c.626 §16]

153.430 Violation procedure; effect of previous offenses. (1) Any person charged with any boating 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 person who has been found guilty of, or who has signed a plea of guilty to, one or more previous boating 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. [1981 c.626 §17]

153.440 Schedule of penalties. (1) Except as otherwise provided in the statute defining the offense, the penalty for committing a boating infraction shall be a fine only.

(2) Boating infractions are classified for the purpose of sentence into the following categories:

(a) Class A boating infractions; and

(b) Class B boating infractions.

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

(a) $1,000 for a Class A boating infraction.

(b) $250 for a Class B boating infraction. [1981 c.626 §9]

TRAFFIC INFRACTIONS

153.505 Traffic infraction described; effect of conviction. (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 153.525 and 153.595 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. [Formerly 484.350]

153.510 Private person may commence action; 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 ORS 153.535 (1). [Formerly 484.155]

153.515 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. [Formerly 484.150]

153.520 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. [Formerly 484.160]

153.525 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 ORS 153.515 (4) or under ORS 153.510, 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. [Formerly 484.170]

153.530 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. [Formerly 484.175]

153.535 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, 482.040 (2), 483.402 to 483.446 or 483.449 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 153.560. [Formerly 484.180]

153.540 Defendant's appearance; bail; request for hearing; statement; guilty plea; when appearance mandatory. (1) The defendant shall appear in court at the time mentioned in the summons if the citation is for a major traffic offense.

(2) In other cases, the defendant shall either appear in court at the time indicated in the summons, or prior to such time shall either:

(a) Request a hearing; or

(b) 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 statement of matters in explanation or mitigation of the offense charged; or

(B) 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 the defendant 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.

(4) The court may require a defendant to appear in any case; however, the court shall require a defendant to appear personally for sentencing if the conviction is grounds for or will result in mandatory revocation or suspension of the defendant's operator's license, permit or right to apply under ORS 482.430. [Formerly 484.190]

153.545 Statement as waiver of hearing and consent to judgment; bail forfeiture. If a defendant has submitted to the court a written statement as provided in ORS 153.540 (2)(b), 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 citing officer or other witnesses which may be presented to the court. [Formerly 484.200]

153.550 Fixing hearing date; notice; suspension of license for failure to appear; exception; termination of suspension. (1) If the defendant requests a hearing, or if pursuant to ORS 153.540 (4) and 153.555 the court directs that a hearing be had, the court shall fix a date and time for the hearing. Unless notice is waived, the court shall mail or otherwise provide to the defendant, at least five days in advance of the hearing, 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 by the court.

(2) If the defendant fails to appear for the hearing at the time and place fixed by the court and has not deposited the amount of bail set by the court, 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 notification, together with a fee of $5, the division shall suspend the defendant's license, permit or right to apply for an indefinite period.

(3) If a defendant fails to appear in court as required under ORS 153.540 (1), the court shall notify the Motor Vehicles Division of the defendant's failure to appear. Upon receipt of the notification the division shall suspend the defendant's license for an indefinite period. The suspension for failure to appear shall be placed on the defendant's driving record as provided in ORS 486.054.

(4) The division shall terminate the suspension ordered under this section upon notification by the court or upon the elapse of five years from the date of suspension. Subject to subsection (5) of this section, the court shall notify the division that the suspension ordered under this section shall be terminated upon:

(a) Payment of the bail or fine set by the court;

(b) Finding of not guilty or order of dismissal; or

(c) Determination by the court that suspension for failure to pay or appear be terminated for good cause.

(5) If a license is suspended under this section, a court shall not issue a notice terminating the suspension until the person whose license is suspended pays the court or the clerk of the court a $15 license reinstatement fee. All fees paid under this subsection shall be disposed of as provided in ORS 153.630 (1) for the disposition of costs.

(6) Notifications by the court to the division shall be in a form prescribed by the division.

(7) 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.

(8) As used in this section, "license" has the meaning given that term by ORS 482.010.

(9) A court shall not notify the division under this section for failure to appear on any pedestrian or bicyclist offense. The division shall not suspend any license under this section for a person's failure to appear on a pedestrian or bicyclist offense. [Formerly 484.210; 1983 c.399 §1; 1983 c.507 §2]

153.555 Hearing discretionary; powers of court on hearing and 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 fine may be 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. [Formerly 484.220]

153.560 Warrant for arrest; time limit on issuance; effect of failure to issue warrant. (1) If a person cited for a traffic crime fails to comply with the provisions of ORS 153.540, or if the person fails to appear at any time fixed by the court, a warrant for the person's 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. [Formerly 484.230]

153.565 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 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. [Formerly 484.030]

153.570 Venue for traffic offense. (1) An action for a state traffic offense which is not punishable as a crime 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 offense 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.

(3) When the state traffic offense is punishable as a crime, the action shall be commenced in the county in which the offense was committed. [Formerly 484.040; 1983 c.565 §2]

153.575 Trial without jury; burden of proof; pretrial discovery; defendant as witness; testimony by affidavit. (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 the 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.

(5) Notwithstanding any other provision of law, a court, in any trial of a traffic infraction, may admit as testimony the affidavit of any witness into evidence in lieu of taking the testimony orally and in court. The authority granted under this subsection is subject to all of the following:

(a) In order to allow testimony to be presented by affidavit in the manner provided by this subsection, a court must adopt rules allowing for such testimony and providing procedures for use of such testimony.

(b) Testimony by affidavit under this subsection shall only be allowed by a court upon the written signed waiver of the defendant of the right to have the testimony be presented orally in court.

(c) A court may allow testimony by affidavit under this subsection with respect to any matter including, but not limited to, matters described in ORS 40.460.

(d) Any affidavit by the defendant under this subsection does not constitute a waiver of

hearing under ORS 153.540 and 153.545 unless specifically so provided by the defendant.

(e) Nothing in this subsection shall require the defendant or any other witness to waive the right to appear if other testimony is taken by affidavit as provided in this subsection. [Formerly 484.375; 1983 c.565 §1]

153.580 Defense counsel not provided at state expense; when prosecuting attorney may appear; notice if defense counsel to appear. (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. [Formerly 484.390]

153.585 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. [Formerly 484.395]

153.590 Effect of conviction on impeachment of witness. A conviction before, on or after July 1, 1976, of any of the statutory counterparts of offenses designated as traffic infractions as defined in ORS 153.505, shall not be used to impeach the character of a witness in any criminal or civil action or proceeding. [Formerly 484.400]

153.595 Appeal. An appeal from a judgment involving a traffic infraction 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. [Formerly 484.405]

153.600 Traffic Court Violations Bureau; duties and powers. (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. The violations clerk shall serve under the direction and control of the court appointing the clerk.

(2) In traffic offense cases the violations clerk shall accept, subject to the limitations set forth in this section and ORS 153.605:

(a) Written appearance, waiver of trial, plea of guilty and payment of fine and costs; or

(b) Payment of bail.

(3) The court shall by order designate the traffic offenses for which the violations clerk has authority over fines, costs, bail and bail forfeitures under this section and ORS 153.605. 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 or bail 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 bail and fines are paid. Bail, fines and costs shall be paid to, receipted by and accounted for by the violations clerk in the same manner as other bail, fines and costs are received by the court. [Formerly 484.310]

153.605 Violation procedure; effect of previous offenses. (1) Any person charged with any traffic offense within the authority of the violations clerk may:

(a) Upon signing an appearance, plea of guilty and waiver of trial, pay the clerk the fine established for the offense charged, and costs.

(b) Pay the clerk the bail established for the offense. Payment of bail under this paragraph constitutes consent to forfeiture of bail and disposition of the offense by the clerk as provided by the rules of the court. Payment of bail under this paragraph is not consent to forfeiture of bail if the bail is accompanied by:

(A) A plea of not guilty;

(B) A request for hearing; or

(C) A written statement of matters in explanation or mitigation under ORS 153.540.

(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 subsection (1) of this section and ORS 153.600.

(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. [Formerly 484.320]

153.610 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. [Formerly 484.355]

153.615 Schedule of penalties. (1) Except as otherwise provided in the statute defining the offense, the penalty for committing a traffic infraction shall be a fine.

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

(a) $500 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. [Formerly 484.360]

153.620 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. [Formerly 484.370]

153.623 Bail and fines for certain vehicle offenses. Notwithstanding any other provision of law, a court that establishes bail for a person charged with violation of a vehicle offense that is in a category described in this section, or a court that imposes a fine for violation of one of those offenses, shall not establish the bail or impose the fine at an amount less than that established for the category described under this section. This section does not require a court to impose bail upon the person if the court determines that the person may be released without bail. If the maximum fine allowable for an offense is less than the amount established under this section for the category of that offense, the court shall establish the bail or impose the fine at the maximum amount allowable for that offense. This section establishes the following minimum amounts for the described categories of offenses for vehicles:

(1) Registration and vehicle licensing violations, $20.

(2) Equipment defects, $20.

(3) Violation of a specific speed limit imposed under law or of a posted speed limit, based on number of miles per hour in excess of speed limit as follows:

(a) 0 to 10 miles per hour in excess of speed limit, $20.

(b) 11 to 20 miles per hour in excess of speed limit, $50.

(c) Over 20 miles per hour in excess of speed limit, $100.

(4) Speed racing, $300.

(5) Passing violations, $25.

(6) Pedestrian violations, $5.

(7) Bicycle violations, $15.

(8) Dealer or wrecker license violations, $300.

(9) License plate violations, $150.

(10) Truck license violations and prorate violations, $50.

(11) Failure to obtain Public Utility Commissioner permit, $50.

(12) Violations of laws on open liquor containers in vehicles, $50.

(13) Violations of laws relating to yielding or stopping for school busses or worker transport busses, $100.

(14) Careless driving, $100.

(15) Violation of winter parking permit requirements, $10.

(16) Failure to have driver license in possession, $5.

(17) Operating with expired driver license, $10.

(18) Operating without driver license, $100.

(19) Misuse, failure to surrender or false application for driver license, $150.

(20) False name or identification to police officer, $150.

(21) Reckless driving, $300.

(22) Driving with suspended or revoked driver license, $300.

(23) Failure to perform duties of driver or witness, $300.

(24) Driving under the influence of intoxicants, $300.

(25) Attempting to elude police officer, $300.

(26) Overload violations other than ORS 483.528 and 487.905, based on weight in excess of allowable weight as follows:

(a) Up to 1,000 pounds over allowable weight, $2.

(b) More than 1,000 pounds but not more than 2,000 pounds over allowable weight, $15.

(c) More than 2,000 pounds but not more than 3,000 pounds over allowable weight, one cent per pound for each pound of excess weight.

(d) More than 3,000 pounds but not more than 5,000 pounds over allowable weight, two cents per pound for each pound of excess weight.

(e) More than 5,000 pounds over allowable weight, seven cents per pound for each pound of excess weight.

(27) Overload violation under ORS 483.528, $100 plus 10 cents per pound for each pound of excess weight.

(28) Overload violations under ORS 487.905, based on weight in excess of allowable weight as follows:

(a) Up to 1,000 pounds over allowable weight, $50.

(b) More than 1,000 pounds but not more than 2,000 pounds over allowable weight, six cents per pound for each pound of excess weight.

(c) More than 2,000 pounds but not more than 5,000 pounds over allowable weight, eight cents per pound for each pound of excess weight.

(d) More than 5,000 pounds over allowable weight, 10 cents per pound for each pound of excess weight.

(29) Failure or refusal to stop for and submit to measurement or weighing, $350.

(30) Parking in a disabled parking space in violation of ORS 487.930, $25.

(31) Violations not otherwise provided for in this section, as follows:

(a) $25 if the violation is not a contributing factor to an accident.

(b) $50 if the violation is a contributing factor to an accident. [1981 s.s. c.3 §105; 1983 c.571 §1]

153.625 Records; notice 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:

(a) Shall keep a full record of every case in which a person is charged with violation of any such offense.

(b) Shall send the division an abstract of conviction or bail forfeiture for any person who is convicted or whose bail is forfeited.

(c) Shall send the division a copy of any final judgment of conviction of any person which results in mandatory license suspension or revocation under ORS 482.430 or 486.211 (3).

(2) The division shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

(3) To comply with this section, a judge or clerk must comply with the following:

(a) Any information required by this section to be sent to the division must be sent within the time provided under ORS 482.480 and must include information required by ORS 482.480.

(b) Information shall not be sent to the division under this section concerning convictions excluded from ORS 482.480. [Formerly 484.240; 1983 c.507 §1]

153.630 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 circuit or district court, to the credit of the General Fund available for general governmental expenses.

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

(c) 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 credit of the General Fund available for general governmental expenses.

(b) If resulting from prosecutions initiated by or from arrests or complaints made by a Highway Division weighmaster, and if collected in a circuit or district court, to the credit of the

State Highway Fund, to be used and expended as are other state highway funds, or if collected in another court, to the Department of Revenue, which 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 which such policeman is employed.

(d) If resulting from prosecutions initiated by or from arrests or complaints made by a sheriff, deputy sheriff or county weighmaster, to the treasurer of the county in which the offense occurred, to be credited to the general fund of that county.

(e) If resulting from prosecutions for parking in a winter recreation parking location, and if collected in a circuit or district court, 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, or if collected in another court, to the Department of Revenue, which 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 provisions of paragraph (b) or (e) of subsection (2) of this section requiring payment to the Department of Revenue are 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 collected in a justice or city court under this section shall be made within the first 20 days of the month following the month in which collected. [Formerly 484.250; 1981 s.s. c.3 §107; 1983 c.164 §1; 1983 c.763 §47]

153.635 Delinquency in paying moneys under ORS 153.630. If any of the money collected under ORS 153.630 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. [Formerly 484.260]

WILDLIFE AND COMMERCIAL FISHING INFRACTIONS

153.705 Private person may commence action. A private person may commence an action for a violation of the wildlife and commercial fishing laws and rules adopted under those laws, as provided in ORS 153.710 (4). [Formerly 496.910]

153.710 Citation for violation of wildlife or commercial fishing laws or rules; form of complaint. (1) A citation conforming to the requirements of this section shall be used by individuals authorized to enforce any of the provisions of the wildlife and commercial fishing laws and rules adopted under those laws and for citing any violations thereof.

(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 complainant shall certify, under penalties of false swearing provided in ORS 162.075, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law or rule. The certification if made by a police officer need not be made before a magistrate or any other person. A private person shall certify before a magistrate, clerk or deputy clerk of the court and this action shall be entered in the court record. A certificate conforming to this

section shall be deemed equivalent of a sworn complaint.

(5) The complaint shall be set aside by the court upon the motion of the defendant before plea when it does not conform to the requirements of this section. This section does not prohibit the use of a uniform citation for other offenses in addition to wildlife or commercial fishing law offenses. [Formerly 496.905]

153.715 Minimum requirements for summons. A summons in an alleged violation of the wildlife and commercial fishing laws and rules promulgated pursuant thereto 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. [Formerly 496.915]

153.720 Minimum requirements for complaint. Except as provided in this section, a complaint in an alleged violation of the wildlife and commercial fishing laws and rules adopted under those laws is sufficient if it contains the following:

(1) 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.

(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 certificate as provided in ORS 153.710 (4) signed by the complainant. [Formerly 496.920]

153.725 Delivery of summons and complaint. An officer issuing the citation shall cause the summons to be delivered to the person cited and shall cause the complaint to be delivered to the court. When the complaint is certified by a private person the court shall cause the summons to be delivered to the defendant. [Formerly 496.925]

153.730 Forwarding of citation and court disposition information to Department of State Police. (1) Each person who enforces the wildlife laws or commercial fishing laws shall cause the portion of the citation referred to in ORS 153.710 (2)(c), or a copy thereof, to be forwarded to the Department of State Police.

(2) When a person is convicted of violation of any provision of the wildlife laws or commercial fishing laws, or any rule promulgated pursuant thereto, or forfeits bail in connection therewith, the court in which such conviction or forfeiture occurs shall forward to the Department of State Police an abstract of record of the conviction or forfeiture. [Formerly 496.927]

153.745 Defendant's appearance; bail; request for hearing; statement; guilty plea. 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:

(1) A request for a hearing; or

(2) A statement of matters in explanation or mitigation of the offense charged; or

(3) The executed appearance, waiver of hearing and plea of guilty appearing on the summons. [Formerly 496.930]

153.750 Statement as waiver of hearing and consent to judgment; bail forfeiture. If a defendant has submitted to the court a written statement as provided in ORS 153.745 (2), 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. [Formerly 496.935]

153.755 Fixing hearing date; notice to defendant; waiver. If the defendant requests a hearing, or if pursuant to ORS 153.760 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. [Formerly 496.940]

153.760 Hearing discretionary; powers of court on hearing and without hearing. 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. 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. [Formerly 496.945]

153.765 Warrant for arrest; time limit on issuance; effect of failure to issue warrant. (1) If a person cited fails to comply with the provisions of ORS 153.745, 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 or justice court may be served, without further indorsement, in any county in this state.

(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 a final disposition of the case. [Formerly 496.950]

PENALTIES

153.990 False certification; penalty. Any person who in connection with the issuance of a citation, or the filing of a complaint, under ORS 8.665, 153.110 to 153.310 and this section, knowingly certifies falsely to the matters set forth therein commits a Class A misdemeanor. [1981 c.692 §14]

CHAPTERS 154 AND 155
[Reserved for expansion]