

Chapter 809

1985 REPLACEMENT PART

Refusal, Suspension, Cancellation and Revocation of Registration and Driving Privileges; Habitual Offenders; Vehicle Impoundment

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REGISTRATION
(Suspension)

809.010 Court-ordered suspension. A court shall order the Motor Vehicles Division to suspend the registration of a motor vehicle upon conviction of the traffic offenses described in this section. The requirement to order the suspension of vehicle registration under this section is subject to all of the following:

(1) The court shall order the division to suspend the registration under this section when a person is convicted:

(a) Of driving a motor vehicle while the person's license is suspended or revoked in violation of ORS 811.175; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) The registration of the following vehicles shall be ordered suspended under this section:

(a) Any vehicle of which the convicted person is the owner.

(b) Any vehicle which the convicted person is operating at the time of the person's arrest.

(3) A court may not issue an order to suspend the registration under this section for more than 120 days.

(4) Upon issuing an order to suspend the registration under this section, a court shall issue a copy of the order to the Motor Vehicles Division for suspension according to ORS 809.020.

(5) The court may order, under this section, the division to suspend the registration of a motor vehicle of which the convicted person is not the owner 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:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants. [1983 c.338 §386; 1985 c.16 §202; 1985 c.173 §6]

809.020 Division response to court-ordered suspension. When the division receives an order from a court to suspend the registration of a vehicle, the division shall respond to the order as provided in this section based on the type of suspension. If the court orders the suspension of registration under:

(1) ORS 809.120, the division shall impose the suspension as recommended by the court.

(2) ORS 809.010, the division shall forthwith suspend the registration and require the owner to return the registration card and plates. When the division suspends a registration under this subsection the division shall do the following:

(a) If the vehicle has not been impounded under ORS 809.700 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 the owner, 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 upon payment by the owner to the division of a restoration fee established under ORS 809.030.

(3) ORS 809.130, the division, after opportunity for hearing under ORS 809.040, shall suspend the registration of the person's employer's vehicles, until notified by the court to reinstate the registration and until the division receives proof of compliance with future responsibility filings from the employer, if the division determines that all of the following apply:

(a) A judgment of the type described under ORS 806.040 was rendered against the person.

(b) The judgment has remained unsettled as described by ORS 809.470 for 60 days.

(c) The judgment continues to be unsettled.

(d) At the time of the accident that is the source of the judgment, the employe was driving, with the permission of the employer, a vehicle owned, operated or leased by the employer. [1983 c.338 §284, 1985 c.16 §116]

809.030 Restoration fee. The restoration fee for registration suspended under ORS 809.020 based on a court order under ORS 809.010 is \$10. [1983 c.338 §292]

809.040 Hearing; notice; judicial review. (1) When a hearing is required under ORS 809.020 or 809.050, the division shall afford a person an opportunity of a hearing before the division suspends or revokes vehicle registration. A hearing described by this subsection is subject to all of the following:

(a) Before the hearing, the division shall provide the person with notice meeting the requirements under ORS 809.430.

(b) The hearing, if requested, shall be before a representative of the division in the county

wherein the person resides unless the person and the division agree to hold it elsewhere.

(c) The hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(2) The hearing requirements under this section do not apply in any case where the division finds a serious danger to the public safety and sets forth specific reasons for such finding.

(3) Judicial review of orders suspending or revoking registration under this section shall be as provided in ORS 183.310 to 183.550. [1983 c.338 §283; 1985 c.16 §115; 1985 c.401 §12]

809.050 Suspension of registration of employer for failure to make future responsibility filing. (1) If an employer is required to make future responsibility filings by ORS 806.200 and fails to make the filings, the division shall revoke or suspend the vehicle registration of vehicles owned by the employer until the owner:

(a) Makes accident reports as required under ORS 811.730; and

(b) Makes future responsibility filings.

(2) The division shall provide an opportunity for a hearing described under ORS 809.040 before suspending or revoking registration under this section. [1983 c.338 §286]

809.060 Suspension, revocation, refusal to issue registration or permit for failure to use same name. The division may refuse to issue, revoke or suspend registration or permits described under ORS 803.600 to 803.625 if the division determines that the person issued or applying for the registration or permit has used one name in an application for registration or such permit and another name in any application for any other registration or such permit. [1983 c.338 §287; 1985 c.16 §118]

809.070 Suspension for presentation of uncollectible check. (1) When authorized under ORS 802.170 to suspend registration because of presentation of an uncollectible check to the division, the division may suspend or cancel any registration in payment of which the check was presented. If the division suspends under this section, the division may:

(a) Delegate authority to any division employe or police officer to seize and recover any registration plates or other evidence of suspended registration; and

(b) If the registration is not recovered under this subsection, proceed as provided under ORS 802.170.

(2) Any vehicles, other than campers, mobile homes and travel trailers, that have registration canceled or suspended under this section and that had a situs in the State of Oregon on January 1 of that year shall be subject to assessment and taxation as personal property for such year. The division shall furnish the names and addresses of the registered owners on such suspended registrations to the assessor of the appropriate county who shall cancel any exemption given for such year under ORS 803.585 and, with the tax collector, take such steps as are necessary to assess and tax the property.

(3) The authority under this section applies to mobile homes registered under ORS 820.500. Mobile homes that have registration suspended or canceled under this section are subject to liens provided under ORS 820.500. [1983 c.338 §289; 1985 c.16 §119]

809.080 Failure to return suspended registration; penalty. (1) A person commits the offense of failure to return suspended registration if the person has vehicle registration suspended and the person fails to immediately return to the division any registration plates or registration card issued to the person under the suspended registration.

(2) If any person fails to return registration plates or cards as required by this section, the division may request any peace officer to secure possession thereof and return it to the division.

(3) The offense described in this section, failure to return suspended registration, is a Class C misdemeanor. [1983 c.338 §291; 1985 c.16 §120; 1985 c.393 §6; 1985 c.401 §14]

(Cancellation)

809.090 Cancellation of registration or title for failure to qualify. (1) The division may cancel the registration or certificate of title or both of a vehicle if the division determines that:

(a) A holder is not entitled thereto; or

(b) All fees applicable to a vehicle, payable to the division under any provision of law have not been paid.

(2) Before cancellation under this section the division must give opportunity for a hearing upon 10 days' notice. The notice shall be served in person or by registered mail. When service is by registered mail, the service shall be deemed to be made on the first day after the deposit in the post office that the mail leaves the place of deposit for the place of the address. [1983 c.338 §288]

809.100 Hearing on proposed cancellation or refusal; judicial review. (1) When the division proposes to cancel or refuse to issue or renew a certificate of title or registration, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Judicial review of orders under this section shall be in accordance with ORS 183.310 to 183.550. [1983 c.338 §282, 1985 c.16 §114; 1985 c.401 §11]

809.110 Failure to surrender canceled registration or title; penalty. (1) A person commits the offense of failure to surrender canceled registration or title if the person holds any evidence of registration or any certificate of title issued by the division that the division has canceled and the person does not surrender the evidence of registration or certificate of title to the division.

(2) The offense described in this section, failure to surrender canceled registration or title, is a Class A misdemeanor. [1983 c.338 §290]

REGISTRATION OR DRIVING PRIVILEGES

809.120 Court recommended suspension of registration or driving privileges for weight violation. (1) In addition to any other punishment imposed under ORS 818.040 a convicting court has authority to recommend the suspension of the driving privileges of the operator of the vehicle used to violate ORS 818.040 or the registration of the vehicle. The authority of a court to recommend the suspension of driving privileges or registration under this section is subject to the following:

(a) Subject to paragraph (b) of this subsection, the court may only recommend suspension for a period of up to 90 days.

(b) For a second or subsequent violation of ORS 818.040, within one year after the first conviction, the court shall recommend the suspension for not less than 30 days nor more than 90 days.

(2) Upon recommending a suspension under this section, a court shall secure the license, driver permit or registration plates recommended suspended and shall immediately forward them to the division with the recommendation of suspension as provided under ORS 809.250.

(3) Upon receipt of an order under this section, the division shall proceed as provided under ORS 809.020 or 809.280. [1983 c.338 §390; 1985 c.16 §207]

809.130 Suspension, revocation of registration or driving privileges for unsettled

judgment. (1) If a court notifies the division under this section that a judgment remains unsettled as described by ORS 809.470, the division must initiate action to determine whether to suspend or revoke driving privileges under ORS 809.410 or vehicle registration of the employer under ORS 809.020. A court shall immediately give the division notice of an unsettled judgment under this section if:

(a) A judgment of the type described under ORS 806.040 is rendered against a person by a court of this state;

(b) The person fails within 60 days to settle the judgment in the manner required under ORS 809.470; and

(c) The judgment creditor or the judgment creditor's attorney makes a written request for forwarding to the division a certificate stating the judgment has not been settled as described in ORS 809.470.

(2) A court that has given the division notice of an unsettled judgment under this section shall immediately forward to the division a certificate stating that the judgment is appropriately settled and describing the judgment and parties sufficiently for identification if:

(a) The judgment is settled in the manner required under ORS 809.470; and

(b) The judgment debtor or the judgment debtor's attorney makes a written request for forwarding to the division a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the division under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge. [1983 c.338 §391, 1985 c.16 §208]

DRIVING PRIVILEGES

(Court-ordered or Recommended)

809.200 Suspension for conviction of traffic offense. (1) A court may order the suspension of the driving privileges and right to apply for driving privileges of a defendant who is convicted of a traffic offense. The length of time for the suspension under this subsection is based upon the class of traffic offense the person is convicted of committing, as follows:

(a) For a traffic crime or a Class A traffic infraction, the suspension may be for a period of not more than one year except the suspension may be for a period of more than one year if the mandatory period of suspension for the offense is more than one year.

(b) For Class B, C or D traffic infractions, the suspension may be for not less than 30 nor more than 180 days.

(2) A court shall notify the division of any suspension under this section so the division may take action in accordance with ORS 809.280.

(3) Upon ordering a suspension under this section, a court shall comply with the requirements under ORS 809.250 to take possession of the license or driver permit of the person. [1983 c.338 §389]

809.210 Suspension or restriction of driving privileges for failure to pay fine or obey court order; exceptions. (1) A court may do any of the following if the 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:

(a) Issue notice to the Motor Vehicles Division to implement procedures under ORS 809.290 and 809.300.

(b) Order a defendant's driving privileges restricted.

(2) The authority granted in this section is in addition to or instead of any other method authorized by law for enforcing a court order.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the division of the restrictions in writing.

(b) Upon removal of such restriction, the court shall notify the division in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The division shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If a judge issues notice to implement procedures under ORS 809.290 and 809.300 as provided under this section:

(a) The judge shall immediately send to the division notice upon payment of the fine as ordered.

(b) The division shall take action on the suspension as provided under ORS 809.290 and 809.300.

(5) A court shall not issue notice under this section to implement procedures under ORS 809.290 and 809.300 for failure to pay a fine relating to any parking offense, pedestrian offense or bicycling offense. [1983 c.338 §387; 1985 c.16 §203; 1985 c.669 §13]

809.220 Failure to appear; suspension or other procedures. This section establishes procedures that are applicable if a person fails to comply with ORS 153.540. All of the following apply to this section:

(1) If a defendant fails to comply with ORS 153.540, a court:

(a) Shall issue notice to the division to suspend for failure to appear if the defendant has not complied with ORS 153.540 (1). If a court issues notice under this paragraph, the division shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the Motor Vehicles Division to implement procedures under ORS 809.290 and 809.300 if the defendant has not complied with ORS 153.540 (2). If a court issues notice under this paragraph, the division shall implement procedures under ORS 809.290 and 809.300.

(2) In any notice to the division under this section, a court shall certify that the defendant failed to comply with ORS 153.540 and shall submit a \$5 notification fee to the division.

(3) Subject to subsection (4) of this section, at any time within five years from the date of a notice to suspend for failure to appear given to the division under this section, a court shall give a second notice to the division to terminate a suspension resulting from the original notice if any of the following occur:

(a) The bail or fine set by the court is paid.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the suspension for failure to pay or appear should be terminated for good cause.

(4) If a court takes any action under this section, the court shall not issue a notice terminating the action until the person pays the court or the clerk of the court a \$15 reinstatement fee. All fees paid under this subsection shall be disposed of as provided in ORS 153.630 (1) for the disposition of costs.

(5) Notifications by a court to the division under this section shall be in a form prescribed by the division.

(6) A court shall not notify the division under this section for failure to appear on any parking, pedestrian or bicyclist offense. [1983 c.338 §393, 1985 c 16 §209; 1985 c.669 §15]

809.230 Court suspension or revocation of nonresident driving privileges. A court may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges of a resident of this state may be suspended or revoked. [1983 c 338 §394]

809.240 Court imposition of suspension or revocation; taking possession of license or permit; temporary permit. (1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.410 or 813.400, the trial judge shall:

(a) Impose the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.250 to take possession of the license or driver permit of the person.

(2) When necessary to give full effect to this section, a court shall issue a temporary driver permit under ORS 807.320. [1983 c.338 §395; 1985 c 16 §210]

809.250 Court to take possession of license or permit; effective date of suspension or revocation. (1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court imposes a suspension under ORS 809.120, 809.200, 809.240 or 809.270.

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the division the license or permit and a copy of the suspension or revocation order.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation. [1983 c.338 §396, 1985 c.669 §14]

809.260 Denial of driving privileges for convicted juvenile. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Motor Vehicles Division, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to any crime, violation, infraction

or other offense involving the possession, use or abuse of alcohol or controlled substances.

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(3) Upon receipt of an order under this section the Motor Vehicles Division shall take action as directed under ORS 809.280. [1985 c.16 §206]

(Court-ordered Driver Improvement Program)

809.270 Driver improvement course; enforcement by suspension or restriction of privileges. (1) A court may require that a defendant convicted of a traffic offense successfully complete, within a time fixed by the judge, a defensive driving or other appropriate driver improvement course conducted by the division or any other rehabilitative program and may use the suspension or restriction of the person's driving privileges or right to apply for driving privileges to enforce the requirement by ordering:

(a) The suspension until the defendant successfully completes the program; or

(b) The suspension or restriction if the defendant fails to successfully complete the program.

(2) The authority granted under this section is 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.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the division of the restrictions in writing.

(b) Upon removal of such restrictions, the court shall notify the division in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The division shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If suspension ordered under this section:

(a) The court shall so notify the division and the division shall impose the suspension of the driving privileges as provided under ORS 809.280.

(b) The court shall notify the division of reinstatement after any suspension ordered under this section.

(c) The division shall take action on the suspension or reinstatement as provided under ORS 809.280.

(d) The judge shall comply with the requirements under ORS 809.250 to take possession of the license or permit of the person. [1983 c 338 §388; 1985 c 16 §204]

(Division Procedures)

809.280 Procedures following court order or recommendation; length of suspension or revocation. This section establishes the procedures the division shall follow when a court orders or recommends the suspension or revocation of driving privileges. This section also establishes the period of time the revocation or suspension will be effective. When a court:

(1) Orders a suspension of driving privileges under ORS 809.270, the division shall immediately make proper entry in its files and records and take other action as necessary to implement the order. The suspension shall remain in force until the division is notified by the court that the suspension is ended, except that, if the division is ordered to automatically restore the driving privileges upon the successful completion of a program, the division shall do so and shall notify the judge in writing that the person has complied with the order of the judge.

(2) Orders a suspension of driving privileges under ORS 809.200, the division shall immediately make proper entry in its files and records and take other action as necessary to implement that order. The suspension shall remain in force for the period of time ordered by the court.

(3) Recommends a suspension of driving privileges under ORS 809.120, the division shall impose the suspension as recommended by the court.

(4) Notifies the division under ORS 809.130, of an unsettled judgment, the division shall sus-

pend and, subject to any other requirements of law, restore the driving privileges upon appropriate notification from the court under ORS 809.130, except that the division shall only impose the suspension after the division has determined that:

(a) The judgment was rendered against the person;

(b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and

(c) The judgment continues to be unsettled as described in ORS 809.470.

(5) Notifies the division under ORS 809.220 to suspend for failure to appear, the division shall suspend the driving privileges of the person for an indefinite period. The division shall terminate the suspension upon notification by the court or upon the elapse of five years from the date of suspension. A suspension under this subsection shall be placed on the defendant's driving record. The division shall not suspend any driving privileges under this subsection for a person's failure to appear on a pedestrian or bicyclist offense.

(6) Sends the division a license under ORS 810.310, the division shall suspend the driving privileges of the person for an indefinite period. The division shall terminate the suspension ordered under this section upon notification by the court or upon the lapse of five years from the date of suspension, whichever comes first.

(7) In addition to any other authority to suspend driving privileges under the vehicle code, the division shall suspend all driving privileges of any person upon receipt of an order of denial of driving privileges under ORS 809.260. The suspension shall be imposed without hearing. The driving privileges of the person shall be suspended as provided in the following:

(a) Upon receipt of the first order denying driving privileges, the division shall impose a suspension for one year, or until the person so suspended reaches 17 years of age, whichever is longer.

(b) Upon receipt of a second or subsequent order denying driving privileges, the division shall suspend for one year or until the person reaches 18 years of age, whichever is longer.

(8) If the division receives notice from a court that it has withdrawn an order issued under ORS 809.260, the division shall immediately reinstate any driving privileges that have been suspended under subsection (7) of this section because of the issuance of the order. [1983 c.338 §362, 1985 c 16 §177, 1985 c 597 §23, 1985 c.669 §12]

809.290 Persons subject to coercive procedures; duration. This section establishes circumstances that will make a person subject to the coercive procedures under ORS 809.300 and what a person is required to do to make the person no longer subject to the procedures. The following apply as described:

(1) A person is subject to ORS 809.300 when the division receives notice from a court to apply this section under ORS 809.220. A person who is subject under this subsection remains subject until the person presents the division with documentation issued by the court showing that the person is no longer subject to this section or until five years have elapsed, whichever is earlier. This subsection shall not subject a person to ORS 809.300 for any pedestrian offense, bicycling offense or parking offense.

(2) A person is subject to ORS 809.300 when the division receives notice from a court under ORS 809.210 that a person has failed to pay a fine or obey an order of the court. A person who is subject under this subsection remains subject until the person presents the division with documentation issued by the court showing that the person has paid the fine or obeyed the order of the court or until five years have elapsed, whichever is earlier. This subsection shall not subject a person to ORS 809.300 for failure to pay a fine relating to any pedestrian offense, bicycling offense or parking offense.

(3) A person is subject to ORS 809.300 if any person pays the division any fee or tax with a bank check and the check is returned to the division as uncollectible. A person who is subject under this subsection remains subject until the division receives the money for the fee or tax and any fee charged by the division under ORS 802.170 or until five years have elapsed, whichever is earlier. [1985 c.669 §6]

809.300 Coercive procedures; notice; hearing; rules. This section establishes coercive procedures for purposes of ORS 809.290. The Motor Vehicles Division shall implement the procedures whenever ORS 809.290 makes a person subject to this section and shall continue the procedures until the person has established to the satisfaction of the division that the person has performed all acts necessary under ORS 809.290 to make the person no longer subject to this section. The following apply to this section:

(1) If a person becomes subject to this section and the records of the division show that the person is not already subject to this section, the division shall do the following:

(a) Refuse to issue or renew any driver license or driver permit or to issue a duplicate or replace-

ment license or driver permit until the person establishes to the satisfaction of the division that the person has performed all acts necessary under ORS 809.290 to make the person no longer subject to this section.

(b) Provide notice to the person in a form established by the division, that informs the person of all of the following:

(A) The person has become subject to this subsection.

(B) The division will comply with paragraph (a) of this subsection until the person establishes to the satisfaction of the division that the person has performed all acts necessary under ORS 809.290 to make the person no longer subject to this section.

(C) What the person must do to no longer be subject to this section.

(D) If circumstances occur that make the person subject to this section before the person establishes to the satisfaction of the division that the person has performed the acts under subparagraph (C) of this paragraph, the division shall comply with subsection (2) of this section.

(E) The person's right to a hearing.

(c) Provide the person with an opportunity for a hearing. All of the following apply to this paragraph:

(A) A request for hearing must be in writing.

(B) The hearing, if requested, shall be before a representative of the division and shall be held in the county where the person resides, unless the person and the division agree otherwise.

(C) Except as otherwise provided in this section, a hearing under this subsection shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(D) The sole purpose of the hearing shall be to determine whether the person is subject to this section under ORS 809.290.

(E) The person requesting the hearing has the burden of showing by a preponderance of evidence that the person is not subject to this section under ORS 809.290.

(2) If a person becomes subject to this section and the records of the division show that the person is already subject to this section, the division shall do the following:

(a) After complying with paragraphs (b) and (c) of this subsection, cancel all driving privileges of the person and refuse to issue any driver license or driver permit to the person until the person establishes to the satisfaction of the division that

the person has performed all acts necessary under ORS 809.290 to make the person no longer subject to this section.

(b) Provide notice to the person in a form established by the division that informs the person of all of the following:

(A) The person has become subject to this subsection.

(B) The division will comply with paragraph (a) of this subsection until the person establishes to the satisfaction of the division that the person has performed all acts necessary under ORS 809.290 to make the person no longer subject to this subsection.

(C) What the person must do to no longer be subject to this subsection.

(D) If circumstances occur that make the person subject to this section while the person's driving privileges are canceled under this subsection, the division shall comply with subsection (3) of this section.

(E) The person's right to a hearing.

(F) Upon cancellation, the person will be subject to penalties for operating without driving privileges if the person operates a motor vehicle.

(G) The person's driving privileges will be canceled unless the person either wins at a hearing or complies with subparagraph (B) of this paragraph. The cancellation will be effective without further notice.

(c) Provide the person with an opportunity for a hearing. The following all apply to this paragraph:

(A) A request for a hearing must be in writing.

(B) The hearing, if requested, shall be before a representative of the division and shall be held in the county where the person resides unless the division and the person agree otherwise.

(C) Except as otherwise provided in this section, the hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(D) The sole purpose of the hearing shall be to determine whether the person has become subject to this section under ORS 809.290 at a time when the person is already subject to this section.

(E) The person requesting the hearing has the burden of showing by a preponderance of evidence that the person is not subject to this section under ORS 809.290.

(F) The order canceling the driving privileges shall be issued unless the person either wins at the hearing or establishes to the satisfaction of the division that the person has complied with ORS 809.290. The order shall be effective without further notice.

(d) If a person's driving privileges are canceled under this subsection, the division except as otherwise provided in this paragraph shall restore the person's driving privileges when the person meets the requirements of this subsection without further requirement for testing, fee or any other requirement. The following apply to this paragraph:

(A) This paragraph does not affect the requirements for restoration of driving privileges when driving privileges are canceled under any other provision of the vehicle code.

(B) This paragraph does not allow driving privileges to be restored without payment of fee or other requirement, if the cancellation continues beyond the time the driving privileges would have normally expired. In such case, the person will be subject to the same conditions after the cancellation is removed as any person who applies for driving privileges after previous privileges have expired.

(3) If a person becomes subject to this section and the records of the division show that the person currently has driving privileges canceled under subsection (2) of this section, the division shall impose a suspension upon the person as provided under ORS 809.410.

(4) The division shall adopt rules necessary or convenient for purposes of this section. [1985 c.669 §7]

(Cancellation)

809.310 Cancellation of driving privileges; grounds; surrender of license or permit; duration. (1) The division may cancel any driving privileges issued by it upon determining that the person issued the driving privileges was not entitled to the driving privileges under the vehicle code or that the person has committed any of the following acts:

(a) Failed to give the required or correct information in the application for the driving privileges.

(b) Committed fraud in making application for the driving privileges.

(c) Fraudulently altered any license or driver permit issued as evidence of the driving privileges granted.

(d) Permitted misuse of license or permit in violation of ORS 807.590.

(2) Upon cancellation of driving privileges under this section, a person whose privileges are canceled shall surrender to the division any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(3) The division shall not issue, within one year from the date of the cancellation, any driving privileges or license or permit evidencing driving privileges to a person whose driving privileges are canceled under this section.

(4) To obtain driving privileges after the period of cancellation under this section, a person must reapply for driving privileges in the manner established by law and must reestablish the person's eligibility for issuance of driving privileges. [1983 c.338 §345; 1985 c.393 §8]

809.320 Cancellation on written request of parent, guardian or employer.

(1) If an applicant for driving privileges must have a parent, guardian or employer sign the application before the person qualifies under ORS 807.060, that parent, guardian or employer who has signed the application may thereafter file with the division a written request that the driving privileges of the person so granted be canceled.

(2) The division shall cancel the driving privileges of a person upon written request under this section if the person is under 18 years of age. [1983 c.338 §346; 1985 c.16 §162]

809.330 Cancellation for presentation of uncollectible check. The division may cancel the driving privileges of any person who presents the division with an uncollectible check as provided under ORS 802.170. Provision is made under ORS 802.170 for recovery of any plates, permits, licenses or documents issued by the division. The authority to cancel driving privileges under this section is in addition to any authority under ORS 809.300. [1983 c.338 §347; 1985 c.669 §11]

(Refusal to Issue or Renew)

809.340 Refusal to issue or renew license or permit; grounds; duration. The division may refuse to issue or renew a driver license or permit or to issue a duplicate or replacement license or permit pursuant to an agreement authorized by ORS 802.530. The following apply to a refusal to issue or renew under this section:

(1) A hearing under ORS 809.350 shall be provided, if requested, before a license, permit, duplicate, replacement or renewal is refused.

(2) The refusal may continue until the division receives proof, satisfactory to the division, that grounds for the refusal no longer exist. [1985 c.396 §3]

809.350 Hearing prior to refusal to issue or renew; notice. (1) Before the division refuses to issue or renew a driver license or permit or to issue a duplicate or replacement license or permit to a person, it shall afford the person an opportunity for a hearing. A hearing described by this subsection is subject to all of the following:

(a) The division shall provide notice of the hearing in the manner provided in ORS 809.430.

(b) The hearing, if requested, shall be before a representative of the division in the county where the person resides.

(c) Except as otherwise provided in this section, the hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(d) The sole purpose of the hearing shall be to determine whether the person notified by the division is the person named or described in notification received from another jurisdiction under the terms of an agreement authorized by ORS 802.530.

(e) The person requesting the hearing has the burden of showing by a preponderance of the evidence that the person is not the person named or described in the notification received from another jurisdiction.

(2) If the person meets the burden of proof required by this section, the division shall issue or renew the person's driver license or permit or issue a duplicate or replacement license or permit to the person. [1985 c.396 §4]

(Suspension or Revocation)

809.360 General provisions relating to suspension or revocation of driving privileges. (1) For purposes of determining whether grounds exist for revoking or suspending driving privileges, an unvacated forfeiture of bail equals a conviction.

(2) A suspension or revocation of driving privileges ordered by a court shall run concurrently with any mandatory suspension or revocation ordered by the division and arising out of the same conviction.

(3) Judicial review of orders denying, suspending or revoking a license, except where such

suspension or revocation is mandatory, shall be as provided in ORS 183.310 to 183.550.

(4) Whenever the division or a court has reason under any laws of this state to suspend or revoke the driving privileges of any person who does not hold current driving privileges to operate motor vehicles or whose driving privileges are due to expire during a suspension period, the division or court shall suspend or revoke the right of such person to apply for driving privileges to operate motor vehicles in this state. A suspension or revocation of a right to apply for driving privileges under this subsection shall be for the period provided for the suspension or revocation of driving privileges for the offense under ORS 809.410 or 813.400. [1983 c 338 §348]

809.370 Authority of juvenile court. A determination by a juvenile court that a child within its jurisdiction has violated a law or ordinance regulating the operation of motor vehicles is equivalent to a conviction and the juvenile court has the same authority to order suspensions of driving privileges and take other actions in relation to the driving privileges of the child as other courts have in relation to adult traffic offenders. [1983 c 338 §349; 1985 c 16 §163]

809.380 Period of suspension; effect; reinstatement; fee. All of the following apply to a person whose driving privileges have been suspended:

(1) The period of suspension shall last as long as provided for that particular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise any driving privileges in this state except as provided under this subsection. Unless otherwise specifically provided by law, a person whose driving privileges are suspended may obtain, if the person qualifies, an occupational driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

(3) Upon expiration of the suspension, the division shall reissue, upon request of the person, the suspended driving privileges and any license or driver permit that evidences the driving privileges. The reissuance shall be without requalification by the person except that the division may require the person to furnish evidence satisfactory to the division that the person is qualified to continue to exercise driving privileges in this state before the division reissues the driving privileges.

(4) The division shall not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the division any license or driver permit issued as

evidence of driving privileges that are suspended, the person is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the division until the fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or waived by the division. The division may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under subsection (13) or (16) of ORS 809.410.

(b) The division committed an error in issuing the suspension.

(c) The suspension was the result of an error committed by an insurance company in canceling a certification of insurance filed with the division under ORS 806.270.

(d) The division issued the suspension without error because the person failed to respond as required under ORS 806.160, but the division later determines that the person in fact was in compliance with financial responsibility requirements as of the date of the division's letter of verification under ORS 806.150.

(e) The division issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date of the division's letter of verification under ORS 806.150, but the division later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the division's letter of verification.

(f) The suspension was the result of an error committed by an insurance company in notifying the division regarding the correctness of a certification under ORS 806.150. [1983 c.338 §350; 1985 c 16 §164; 1985 c 173 §1, 1985 c.393 §9; 1985 c.669 §17a; 1985 c.714 §8]

809.390 Period of revocation; effect; reinstatement; fee. All of the following apply to a person whose driving privileges have been revoked:

(1) The period of revocation shall last as long as required for the revocation by law.

(2) During the period of revocation, the person is not entitled to exercise any driving privileges in this state or to apply for or receive any driving privileges in this state except when a person who has been determined to be a habitual offender is permitted to obtain driving privileges under a probationary driving permit as described

under ORS 807.270 and 809.650. This subsection prohibits the issuance of any driver permit, including an occupational driver permit described under ORS 807.240, to a person whose driving privileges or right to apply for driving privileges are revoked except as provided for the probationary driving permit under ORS 807.270.

(3) Upon expiration of the revocation period, the person must reapply for driving privileges in the manner established by law and must reestablish the person's eligibility for issuance of driving privileges. If driving privileges are revoked because the person is a habitual offender, the person must meet the additional eligibility requirements for reinstatement of driving privileges under ORS 809.650 and 809.660.

(4) The division may issue new driving privileges to a person before the expiration of the revocation period if the person is otherwise entitled to be issued driving privileges and when, with reference to a conviction upon which the revocation was based, the Governor has pardoned the person of the crime.

(5) The division shall not issue any driving privileges in contradiction to this section.

(6) If the person fails to surrender to the division any license or driver permit issued as evidence of driving privileges that are revoked, the person is subject to the penalty under ORS 809.500.

(7) No reinstatement of revoked driving privileges will be made by the division until the fee for reinstatement of revoked driving privileges established under ORS 807.370 is paid to or waived by the division. The division may waive the reinstatement fee if the division committed an error in issuing the revocation. [1983 c 338 §351; 1985 c.16 §165; 1985 c.393 §10; 1985 c 669 §1]

809.400 Suspension or revocation for out-of-state conviction. (1) The division may suspend or revoke the driving privileges of any resident of this state upon receiving notice of the conviction of such person in another state of an offense therein that, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person.

(2) The division shall suspend or revoke the driving privileges of any resident of this state upon receiving notice from another state, territory, federal possession or district or province of Canada that the person's driving privileges in that jurisdiction have been suspended or revoked. The suspension or revocation under this subsection shall continue until the person suspended or revoked furnishes evidence of any of the following:

(a) Compliance with the law of the other jurisdiction and the restoration of driving privileges in that jurisdiction. In order to have driving privileges restored under this paragraph, a person must make a future responsibility filing with the division.

(b) That the revocation or suspension in the other jurisdiction was not under circumstances that would require the division to suspend or revoke the driving privileges of the person under the laws of this state. [1983 c.338 §352]

809.410 Grounds for suspension and revocation; whether mandatory or permissive; duration. This section and ORS 813.400 establish grounds for the suspension and revocation of driving privileges by the division, whether the suspension or revocation is mandatory or permissive, the length of time the suspensions will be effective and special provisions relating to certain suspensions and revocations. Hearing procedures for this section and ORS 813.400 are established under ORS 809.440. The following apply as described:

(1) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the division shall revoke the driving privileges or right to apply for driving privileges.

(b) The revocation shall be for a period described in this paragraph except that the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings. The period of revocation shall be for a period of:

(A) Five years from the date of revocation except as provided in subparagraph (B) of this paragraph.

(B) One year if the revocation is for an assault that is not punishable as a felony.

(c) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issues of whether the person is the person convicted and whether the offense resulted from the operation of a motor vehicle. The division may use expedited hearing procedures under ORS 809.440.

(2) Any degree of recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the division shall suspend the driving privileges or right to apply for driving privileges.

(b) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issues of whether the person is the person convicted and whether the offense resulted from the operation of a motor vehicle. The division may use expedited hearing procedures under ORS 809.440.

(c) A suspension under this subsection shall be for a period described under Schedule I of ORS 809.420, except that the division shall not reinstate any driving privileges to the person until the person has complied with future responsibility filings.

(3) Perjury or the making of a false affidavit to the division under any law of this state requiring the registration of vehicles or regulating their operation on the highways constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the division shall revoke the driving privileges or right to apply for driving privileges.

(b) The revocation shall be for a period of one year from the date of revocation except that the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issue of whether the person is the person convicted. The division may use expedited hearing procedures ORS 809.440.

(4) Any felony conviction with proof of a material element involving the operation of a motor vehicle constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the division shall revoke the driving privileges or right to apply for driving privileges.

(b) The revocation shall be for a period of one year from the date of revocation except that the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) The hearing shall be a limited hearing ORS 809.440 that is limited to the issues of whether the person is the person convicted and whether the offense resulted from the operation

of a motor vehicle. The division may use expedited hearing procedures under ORS 809.440.

(5) Failure to perform the duties of a driver to injured persons under ORS 811.705 constitutes grounds for revocation of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the division shall revoke the driving privileges or right to apply for driving privileges.

(b) The revocation shall be for a period of one year from the date of revocation except that the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issue of whether the person is the person convicted. The division may use expedited hearing procedures under ORS 809.440.

(6) Reckless driving constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction for an offense described in this subsection, the division shall suspend the driving privileges or right to apply for driving privileges.

(b) The suspension shall be for the periods of time described under Schedule I of ORS 809.420 except that the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issue of whether the person is the person convicted. The division may use expedited hearing procedures under ORS 809.440.

(7) Failure to perform duties of a driver when property is damaged under ORS 811.700 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a record of conviction of an offense described in this subsection, the division shall suspend the driving privileges or right to apply for driving privileges.

(b) The suspension shall be for the periods of time described under Schedule I of ORS 809.420 except the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issue of whether the person is the person convicted. The

division may use expedited hearing procedures under ORS 809.440.

(8) Fleeing or attempting to elude a police officer under ORS 811.540 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) Upon receipt of a conviction for an offense described in this subsection, the division shall suspend the driving privileges or right to apply for driving privileges.

(b) The suspension shall be for a period described under Schedule I of ORS 809.420 except the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filings.

(c) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issue of whether the person is the person convicted. The division may use expedited hearing procedures under ORS 809.440.

(9) Failure to file accident reports required under ORS 811.725 or 811.730 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division shall suspend the driving privileges or right to apply for driving privileges if the person fails to make the required accident reports.

(b) The suspension shall continue until the person makes the required reports and complies with future responsibility filings.

(10) Failure to make future responsibility filing described in this subsection constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division shall suspend the driving privileges or right to apply for driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or to provide new proof for future responsibility filings when requested by the division.

(b) The suspension shall continue until the person complies with future responsibility filings.

(11) Failure to settle judgments as described in this subsection constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division shall suspend the driving privileges or right to apply for driving privileges if a person has a judgment of the type described under ORS 806.040 rendered against the person and the person does not settle the judgment in the

manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings and does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer which has been found by the division to be obligated to pay the judgment provided that there has been no final adjudication by a court that such insurer has no such obligation.

(C) Gives evidence to the division that a period of seven years has elapsed since the entry of the judgment.

(D) Furnishes the division with written consent of the judgment creditor on such forms as the division may prescribe that the person's driving privileges may be restored for the period of time permitted by such consent.

(E) Receives from the court that rendered the judgment an order permitting the payment thereof in instalments.

(12) False certification of financial responsibility requirements constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division shall suspend the driving privileges or right to apply for driving privileges if a person falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or if a person, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) The division shall only suspend under this subsection if proof of compliance with financial responsibility requirements as of the date of the letter of verification from the division under ORS 806.150 is not submitted within 30 days after the date of the mailing of the division's demand therefor under ORS 806.160.

(c) The suspension shall continue until the person complies with future responsibility filings.

(13) Failure to take examination upon request of the division under ORS 807.340 constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division shall suspend the driving privileges or right to apply for driving privileges of a person if the division requests the person to submit to examination under ORS 807.340 and the person fails to appear within a reasonable length of time after being notified to do so or fails to satisfactorily complete the required examination.

(b) The suspension shall continue until the examination required by the division is successfully completed.

(c) Upon suspension under this subsection, the division may issue an identification card to the person for identification purposes as described under ORS 807.400.

(14) Failure to obtain required medical clearance under ORS 807.070 or 807.090 upon request by the division constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division shall suspend the driving privileges of the person if the division requests the person to obtain medical clearance described by this subsection and the person fails to do so.

(b) The suspension under this subsection shall continue until the required medical clearance is received by the division.

(15) Causing or contributing to an accident resulting in death or injury to any other person or serious property damage through incompetence, recklessness, criminal negligence or unlawful operation of a motor vehicle constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of such person of crime if the division has reason to believe that the person may endanger people or property if not immediately suspended. Any suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440.

(b) A suspension under this subsection shall continue for a period determined by the division and be subject to any conditions the division determines necessary.

(16) Incompetence to drive a motor vehicle or affliction with mental or physical infirmities or disabilities rendering it unsafe for a person to drive a motor vehicle upon the highways constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division immediately may suspend the driving privileges of any person without hear-

ing and without receiving a record of the conviction of such person of crime if the division has reason to believe that the person may endanger people or property if not immediately suspended. Any suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440.

(b) A suspension under this subsection shall continue for a period determined by the division and be subject to any conditions the division determines necessary.

(17) Habitual incompetence, recklessness or criminal negligence of a driver of a motor vehicle or committing a serious violation of the motor vehicle laws of this state constitutes grounds for suspension of driving privileges. The following apply to this subsection:

(a) The division immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of such person of crime if the division has reason to believe that the person may endanger people or property if not immediately suspended. Any suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440.

(b) A suspension under this subsection shall continue for a period determined by the division and be subject to any conditions the division determines necessary.

(18) Incompetence to operate a motorcycle constitutes grounds for revocation of a motorcycle indorsement. The following apply to this subsection:

(a) Whenever the division has reason to believe an individual with a motorcycle indorsement under ORS 807.170 comes within the grounds described in this subsection, the division may revoke the indorsement.

(b) Upon revocation under this subsection, the license shall be surrendered to the division.

(c) Upon surrender of the indorsed license, the division may issue a license without indorsement for the unexpired period of the license.

(19) The division forthwith shall suspend the driving privileges of any person for a period of time required by this subsection if the person is involved in a motor vehicle accident at any time when the division determines the person has been operating a vehicle in violation of ORS 806.010. A suspension under this subsection shall be for a period of one year and shall continue after that period until the person makes future responsibility filings with the division and maintains the filing for a period of three years thereafter.

(20) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive, the division shall suspend the driving privileges of the released person until such time as the person can produce a judicial decree of competency, or a certificate from the superintendent of the hospital that the person is competent.

(21) The division shall suspend driving privileges when provided under ORS 809.300. The suspension shall continue until the earlier of the following:

(a) The person establishes to the satisfaction of the division that the person has performed all acts necessary under ORS 809.290 to make the person not subject to ORS 809.300.

(b) Five years from the date the suspension is imposed.

(22) Criminal trespass under ORS 164.245 that involves the operation of a motor vehicle constitutes grounds for suspension of driving privileges. The following apply to suspension on grounds described in this subsection:

(a) Upon receipt of a conviction for an offense described in this subsection, the division shall suspend the driving privileges or right to apply for driving privileges of the person convicted for a period of six months from the date of suspension.

(b) The hearing shall be a limited hearing under ORS 809.440 that is limited to the issues of whether the person is the person convicted and whether the offense resulted from the operation of a motor vehicle. The division may use expedited hearing procedures under ORS 809.440.

(23) Agreements entered under ORS 802.530 may establish grounds and procedures for the suspension of driving privileges. [1983 c 338 §353, 1985 c.16 §166, 1985 c 301 §1; 1985 c.393 §10a; 1985 c.396 §6; 1985 c 669 §2a, 1985 c 714 §6]

809.420 Schedule of suspension or revocation periods for certain offenses.

This section establishes schedules of suspension or revocation periods. The schedules are applicable upon conviction for the offense when made applicable under ORS 809.410 and 813.400. The schedules are as follows:

(1) Schedule I. The suspension or revocation periods under Schedule I are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) First conviction within a five-year period, 90 days.

(b) Second conviction within a five-year period, one year.

(c) Third or subsequent conviction within a five-year period, three years.

(2) Schedule II. The suspension or revocation periods under Schedule II are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) First conviction within a five-year period, one year.

(b) Second or subsequent conviction within a five-year period, three years. [1983 c.338 §354]

809.430 Notice of suspension, cancellation or revocation; contents; service. (1) When the division, as authorized or required, suspends, revokes or cancels driving privileges or the right to apply for driving privileges to operate a motor vehicle, it shall give notice under this section of such action to the person whose driving privileges or right to apply is affected.

(2) Notice under this section shall state the nature and reason for the action and, in the case of a suspension, whether it was ordered by a court.

(3) Service of notice under this section is accomplished by:

(a) Mailing the notice by certified mail, restricted delivery, return receipt requested, to the person's address as shown by division records; or

(b) Personal service in the same manner as a summons is served in an action at law. [1983 c.338 §355]

809.440 Hearing procedures. This section establishes hearing procedures for purposes of ORS 809.410 and 813.400. The following apply as described or as made applicable under ORS 809.410 or 813.400:

(1) When other hearing procedures described under this section are not applicable to a suspension or revocation under ORS 809.410 or 813.400, the procedures described in this subsection shall be applicable. All of the following apply to this subsection:

(a) The hearing shall be given before the division imposes the suspension or revocation of driving privileges or continues, modifies or extends a suspension or revocation.

(b) Before the hearing, the division shall notify the person in the manner described in ORS 809.430.

(c) The hearing shall be before a representative of the division and shall be in the county where the person resides unless the person and the division agree otherwise.

(d) Upon such hearing, the division, good cause appearing therefor, may impose, continue, modify or extend the suspension or revocation of the driving privileges.

(2) The following apply when a limited hearing is provided under ORS 809.410 or 813.400:

(a) Except as otherwise provided in this subsection, the hearing shall be subject to the same conditions as a hearing under subsection (1) of this subsection.

(b) The sole purpose of the hearing shall be to determine the issue established for the limited hearing under ORS 809.410 or 813.400.

(3) When permitted under this section or under ORS 809.410 or 813.400, a hearing may be an expedited hearing under this subsection. All of the following apply to this subsection:

(a) Except as otherwise provided under this subsection, the hearing shall be subject to the same conditions as a hearing under subsection (1) of this section.

(b) The division, by rule, may establish procedures for an expedited hearing under this subsection. The procedures may include a limited time in which the person may request a hearing, expedited procedures for issuing orders and expedited notice procedures.

(4) When permitted under ORS 809.410 or 813.400, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the division imposes the suspension or revocation of driving privileges or continues, modifies or extends a suspension or revocation. All of the following apply to this subsection:

(a) The division must provide notice in the manner described in ORS 809.430 before the suspension or revocation may take effect.

(b) Except as provided in this subsection, the hearing shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

(c) The hearing shall be before a representative of the division and shall be held in the county where the person resides unless the person and the division agree otherwise.

(5) The division has complied with a requirement for a hearing under this section and ORS 809.410 and 813.400 if the division has provided an opportunity for hearing and the person with the right to the hearing has not requested the hearing. Any request for hearing must be made in writing.

(6) For any hearing described under this section, no further notice need be given by the

division if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the division, of the rights to a hearing and of the suspension or revocation. [1985 c.669 §4 (enacted in lieu of 1983 c.338 §§356, 357)]

809.450 Recission of suspension for financial and future responsibility violations; grounds; hearing. (1) The division may provide a hearing to determine the validity of a suspension for failure to make a future responsibility filing or for false certification of financial responsibility requirements under ORS 809.410, if the person requests that the suspension be rescinded and specifies the reasons for the request. The division may rescind a suspension only as provided in subsection (2) of this section.

(2) The granting of a hearing under this section shall not stay the suspension. However, the division shall rescind the suspension if the division determines:

(a) That an error was committed by the division;

(b) That the person in fact was in compliance with financial responsibility requirements as of the date of the division's letter of verification under ORS 806.150;

(c) That an error was committed by an insurance company in notifying the division regarding the correctness of a certification under ORS 806.150; or

(d) That the person was not in compliance with financial responsibility requirements as of the date of the division's letter of verification under ORS 806.150 and the division also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the division's letter of verification and that the person currently is in compliance with financial responsibility requirements.

(3) The hearing shall be held in the manner provided in ORS 809.440. [1985 c.714 §11]

809.460 Recission of suspension or revocation upon appeal of underlying conviction. (1) The division shall immediately rescind a suspension or revocation of driving privileges or right to apply for driving privileges if:

(a) The suspension or revocation is based upon a conviction for a law violation; and

(b) The division thereafter is notified in writing by the judge before whom the conviction was had that such person has taken an appeal from the conviction.

(2) The division shall reinstate any suspension or revocation of driving privileges or right to apply for driving privileges that have been restored under this section because of appeal if any of the following occur:

- (a) The conviction is affirmed on appeal.
- (b) The appeal is dismissed.

(c) The appeal is not perfected within the statutory period. [1983 c 338 §359; 1985 c.16 §174]

809.470 When judgment considered settled for purposes of suspension requirements. (1) This section establishes when a judgment described under ORS 806.040 is settled for purposes of ORS 806.100, 809.130, 809.280 and 809.410. A judgment shall be deemed settled for the purposes described if any of the following occur:

(a) When payments in the amounts established by the payment schedule under ORS 806.070 have been credited upon any judgment or judgments rendered in excess of those amounts.

(b) When judgments rendered for less than the amounts established under ORS 806.070 have been satisfied.

(c) When the judgment creditor and the judgment debtor have mutually agreed upon a compromise settlement of the judgment.

(d) When the judgment against the judgment debtor has been discharged in bankruptcy.

(2) Payments made in settlement of any claims because of bodily injury, death or property damage arising from the accident shall be credited in reduction of the amounts provided for in subsection (1) of this section. [1983 c 338 §360; 1985 c 16 §175]

809.480 Division driver improvement program; purpose; suspension; fee. (1) The division is authorized to establish, by administrative rule, a program for the improvement of drivers granted driving privileges in this state. The program shall have as its goal the reduction of traffic convictions and especially accidents. The program may include, but shall not be limited to letters, interviews and classroom instruction.

(2) The division, under the program authorized by this section, may suspend driving privileges based on any of the following:

(a) A person's record of convictions or accidents.

(b) A person's failure or refusal to complete or comply with a requirement of the program established by the division under this section.

(3) The division is authorized to charge a reasonable fee to participants in the driver improvement program to cover costs of administration.

(4) Any suspension that the division stays under the driver improvement program in this section shall continue for the full term of the suspension if a person fails to complete the program. For purposes of ORS 809.410 and 813.400 and for purposes of reinstating driving privileges, the stay of a suspension under this section shall not be used to determine the length of time a person's driving privileges have been suspended if the person does not successfully complete the program. [1983 c 338 §368; 1985 c.16 §190]

809.490 Suspension or revocation of nonresident driver; reports to home state.

(1) If the defendant named in any certified copy of a judgment reported to the division is a nonresident, the division shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident.

(2) The division, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offenses under the motor vehicle laws of this state, may forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(3) The division may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges to operate a motor vehicle of a resident of this state may be suspended or revoked.

(4) If the driving privileges of a nonresident are revoked or suspended, the division shall transmit a copy of the record of such action to the official in charge of the issuance of licenses in the state, territory, federal possession or district or province of Canada in which the nonresident resides, if the law of the other jurisdiction provides for action in relation thereto similar to that provided under ORS 809.400 for residents of this state whose driving privileges are suspended or revoked in another jurisdiction. [1983 c 338 §361, 1985 c.16 §176; 1985 c 173 §4]

809.500 Failure to return suspended, revoked or canceled license; penalty. (1) A person commits the offense of failure to return a suspended, revoked or canceled license if the person has driving privileges suspended and the person fails to immediately return to the division any license or driver permit issued by the division.

(2) If any person fails to return a license or driver permit on suspension, revocation or cancellation of the person's driving privileges, the division may request any peace officer to secure possession thereof and return it to the division.

(3) The offense described in this section, failure to return a suspended, revoked or canceled license, is a Class C misdemeanor. [1983 c.338 §363, 1985 c.16 §178; 1985 c.393 §11]

HABITUAL OFFENDERS

809.600 Number and kind of offenses.

This section establishes the number and kind of offenses necessary to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The number and kind of offenses necessary to revoke driving privileges as a habitual offender are as follows:

(1) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of or forfeited bail for three or more of any one or more of the following offenses as evidenced by the records maintained by the division or by the records of a similar agency of another state:

(a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(b) Driving while under the influence of intoxicants under ORS 813.010.

(c) Driving a motor vehicle while suspended or revoked under ORS 811.175.

(d) Reckless driving under ORS 811.140.

(e) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

(f) Fleeing or attempting to elude a police officer under ORS 811.540.

(2) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of or forfeited bail for 20 or more of any one or more of the following offenses as evidenced by the records maintained by the division or by a similar agency of another state:

(a) Any offenses enumerated in subsection (1) of this section.

(b) Any offense under sections ORS 811.010 to 811.050, 811.100, 811.115 to 811.135, 811.145 to 811.170, 811.190 to 811,205, 811.260 to 811.390, 811.400 to 811.435, 811.445, 811,455, 811.460, 811.470 to 811.485, 811.495 to 811.510, 811.515 (1), (2), (6) and (12), 811.535, 811.565,

811.710, 814.130, 814.150, 814.200 to 814.220, 814.250, 814.320, 815.270, 820.220, 820.310 and 820.320.

(3) A person's driving privileges shall not be revoked under subsection (2) of this section until the person's 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.

(4) The offenses described under this section include any of the following:

(a) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation that substantially conforms to offenses described under this section.

(b) Any violation of offenses under any federal law or any law of another state, including subdivisions thereof, that substantially conforms to offenses described in this section. [1983 c.338 §365; 1985 c 16 §179]

809.610 Notice; advisory meeting. (1)

When the division receives an abstract of the conviction or bail forfeiture, under ORS 153.625, and the conviction or bail forfeiture is the second one of those described by ORS 809.600 (1) for the person, the division immediately shall notify the licensee and offer the licensee an opportunity of an advisory meeting with a representative of the division. The notice shall be accomplished as provided under ORS 809.620.

(2) If the licensee requests a meeting under subsection (1) of this section, the meeting shall be held in the county wherein the licensee resides. At the meeting, the division shall advise the licensee of the provisions of the Habitual Traffic Offenders Act and of the availability of educational programs for driver improvement. [1985 c 16 §181]

809.620 Service of notice; contents. (1)

Service of notice required under ORS 809.610 or 809.640 is accomplished either:

(a) By mailing the notice by certified mail restricted delivery, return receipt requested, to the person's address as shown by division records; or

(b) By personal service in the same manner as a summons is served in an action at law.

(2) A notice required under ORS 809.640 shall inform the person of all the following:

(a) That the person's driving privileges are being revoked as a habitual offender.

(b) That the person has a right to request a hearing.

(c) The specific steps that must be taken to obtain a hearing before the division.

(d) That the person may only obtain a hearing if the person requests, in writing, a hearing within 20 days from the date the notice was sent.

(e) That the right to a hearing is waived if the person does not request a hearing within the time required.

(f) The date that the revocation of the person's driving privileges shall take effect unless a hearing is requested. [1985 c.16 §183]

809.630 Failure to receive notice; effect. A person's failure to receive notice under ORS 809.620 does not prevent a finding that a person is a habitual offender and a revocation of the driving privileges of the person if:

(1) The person refuses to sign a receipt for certified mail containing the notice, or fails to pick up certified mail after proper notification of attempted delivery is made; or

(2) The notice cannot be delivered to the person because the person has not notified the division of a change in address or residence in accordance with ORS 807.560. [1985 c.16 §185]

809.640 Division procedures on habitual offender determination; judicial review. (1) When the division determines from the driving record of a person as maintained by the division that a person's driving privileges are required to be revoked as a habitual offender under ORS 809.600, the division shall do the following:

(a) Revoke the driving privileges of the person.

(b) Notify the person, as provided under ORS 809.620, of the revocation and of the person's right to a hearing as provided under this section.

(2) If the person makes a request for a hearing within the time required under ORS 809.620, the division shall stay the effective date of the revocation under this section.

(3) Upon receipt of a valid request for a hearing under ORS 809.620, the division shall schedule a hearing in the county in which the person making the request resides. In the case of a nonresident, the hearing shall be held in Marion County. Another location may be designated for the hearing if agreed upon by the division and the person.

(4) Except as otherwise provided in this section, a hearing under this section shall be conducted as a contested case under ORS 183.310 to 183.550.

(5) The scope of a hearing under this section shall be limited to a determination of the following:

(a) Whether the person is the person named on the driving record.

(b) Whether the convictions or bail forfeitures shown on the driving record are those of the person named on the driving record.

(c) Subject to ORS 809.630, whether the division provided notice under ORS 809.620.

(6) If the person requesting the hearing denies having been convicted of or having forfeited bail for any offense necessary for the finding that the person is a habitual offender, and if the division cannot make a determination of the issue on the evidence available, the division shall certify the issue to the court in which the conviction or bail forfeiture was made. The court to which the certification is made shall forthwith conduct a hearing to determine the issue and shall send a certified copy of its final order determining the issue to the division.

(7) If the division determines from the hearing that the person:

(a) Is the person named in the driving record and that the convictions or bail forfeitures shown on the record are those of the person named in the record, the division, except as provided in paragraph (c) of this subsection, shall affirm the finding that the person is a habitual offender and shall order the person's driving privileges to be revoked.

(b) Is not the person named in the driving record or that the person has not received sufficient convictions or bail forfeitures to be a habitual offender, the division shall dismiss the proceeding.

(c) Was not provided notice under ORS 809.620, the division shall dismiss the proceeding. The division shall not dismiss proceedings under this paragraph if notice was not received for any reason described in ORS 809.630.

(8) A hearings officer may act on behalf of the division in the hearing procedures under this section.

(9) A person who is determined to be a habitual offender and whose driving privileges are revoked under this section has the right to judicial review of the revocation as provided for contested cases under ORS 183.310 to 183.550. [1983 c 338 §367; 1985 c.16 §187]

809.650 Effect of habitual offender revocation. (1) When the division revokes a person's driving privileges as a habitual offender

under ORS 809.640, the person has no driving privileges for motor vehicles in this state and cannot obtain any driving privileges for motor vehicles in this state, except as provided under a probationary driver permit described under ORS 807.270, until the person:

(a) Is again eligible under this section for the issuance of driving privileges; and

(b) The division restores the privilege of the person to operate a motor vehicle in this state under ORS 809.660.

(2) A person whose driving privileges are revoked as a habitual offender is not eligible for the issuance of driving privileges until the expiration of five years from the date the driving privileges of the person were revoked. [1983 c.338 §366; 1985 c.16 §186]

Note: Section 2, chapter 254, Oregon Laws 1985, provides.

Sec. 2. Subsection (2) of section 366, chapter 338, Oregon Laws 1983, applies to any person whose driving privileges have been revoked as a habitual offender before or after the effective date of chapter 758, Oregon Laws 1983 [January 1, 1984].

809.660 Restoration of privileges.

When a person whose driving privileges have been revoked as a habitual offender becomes eligible for issuance of driving privileges under ORS 809.650, the person may apply to the division for restoration of the privilege to operate a motor vehicle in this state. Upon such petition, and for good cause shown, the division, in its discretion, may restore to the person the privilege to operate a motor vehicle in this state:

(1) Upon such terms and conditions as the division may prescribe; and

(2) Subject to other provisions of law relating to the issuance of driving privileges. [1985 c.16 §189]

VEHICLE IMPOUNDMENT

809.700 Court-ordered impoundment; grounds; duration; vehicles subject; return; security interest holder rights. A court may order a motor vehicle impounded upon conviction for the traffic offenses described in this section. The authority to impound a vehicle under this section is subject to all of the following:

(1) The court may order a vehicle impounded under this section when a person is convicted:

(a) For driving a motor vehicle while the person's license is suspended or revoked in violation of ORS 811.175; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) A vehicle may be impounded under this section for not more than 120 days from judgment.

(3) The following vehicles may be impounded under this section:

(a) Any motor vehicle of which the convicted person is the owner.

(b) Any motor vehicle which the convicted person is operating at the time of arrest.

(4) The person convicted shall be liable for the expenses incurred in the removal and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.

(5) The vehicle shall be returned to the person convicted or the owner only upon payment of the expenses incurred in the removal and storage of the vehicle under this section.

(6) 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 procedures under ORS 819.180, 819.190, 819.210, 819.220 and 819.240 to 819.260.

(7) The court may order that a motor vehicle of which the convicted person is not the owner be impounded 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:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants.

(8) The authority to impound any vehicle under this section is subject to the rights of a security interest holder under a security agreement executed before an arrest for violation of an offense for which the vehicle may be impounded under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

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

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

(c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest holder takes possession of the vehicle subject to the suspension of the registration remaining in effect against the registered owner. [1983 c.338 §385; 1985 c 16 §200]

809.710 Authority to refuse to release vehicle to intoxicated person. Notwith-

standing any other provision of law, a police officer, a police agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from

custody to any person who is visibly under the influence of intoxicants. [Formerly 484.225]

OREGON VEHICLE CODE
