Chapter 809

1991 EDITION

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

REGISTRATION

(Suspension)

809.010 Court-ordered suspension

809.020 Division response to court-ordered suspension

809.030 Restoration fee

809.040 Hearing; notice; judicial review

809.050 Suspension of registration of employer for failure to make future responsibility filing

809.060 Suspension, revocation, refusal to issue registration or permit for failure to use same name

809.070 Suspension for presentation of uncollectible check

809.080 Failure to return suspended registration; penalty

(Cancellation)

809.090 Cancellation of registration or title for failure to qualify

809.100 Hearing on proposed cancellation or refusal; judicial review

809.110 Failure to surrender canceled registration or title; penalty

CANCELLATION OF REGISTRATION FOR CERTAIN OFFENSES

(Temporary provisions relating to the cancellation of registration for certain offenses, are compiled as notes following ORS 809.110)

REGISTRATION OR DRIVING PRIVILEGES

809.120 Court recommended suspension of registration or driving privileges for weight violation

809.130 Suspension, revocation of registration or driving privileges for unsettled judgment

809.140 Administrative review of suspension, revocation or cancellation

DRIVING PRIVILEGES

(Court-ordered or Recommended)

809.210 Suspension or restriction of driving privileges for failure to pay fine or obey court order; exceptions

809.220 Failure to appear; suspension or other procedures

809.230 Court suspension or revocation of nonresident driving privileges

809.240 Court imposition of suspension or revocation; taking possession of license or permit; temporary permit

809.250 Court to take possession of license or permit; effective date of suspension or revocation

809.260 Denial of driving privileges for convicted juvenile

Note Suspension for controlled substances convictions–1991 c.835 §2

(Court-ordered Driver Improvement Program)

809.270 Driver improvement course; enforcement by suspension or restriction of privileges

(Division Procedures)

809.280 Procedures following court order or recommendation; length of suspension or revocation

809.290 Persons subject to coercive procedures; duration

(Cancellation)

809.310 Cancellation of driving privileges; grounds; surrender of license or permit; duration; reissuance of privileges

809.320 Cancellation on written request of parent, guardian or employer

809.330 Cancellation for presentation of uncollectible check

(Refusal to Issue or Renew)

809.350 Hearing prior to refusal to issue or renew; notice

(Suspension or Revocation)

809.360 General provisions relating to suspension or revocation of driving privileges

809.370 Authority of juvenile court

809.380 Period of suspension; effect; reinstatement; fee

809.390 Period of revocation; effect; reinstatement; fee

809.400 Suspension or revocation for out-of-state conviction

809.405 Suspension of provisional driver license

809.410 Grounds for suspension and revocation; whether mandatory or permissive; duration

809.420 Schedule of suspension or revocation periods for certain offenses

809.430 Notice of suspension, cancellation or revocation; contents; service

809.440 Hearing and administrative review procedures

809.450 Rescission of suspension for financial and future responsibility violations; grounds; hearing

809.460 Rescission of suspension or revocation upon appeal of underlying conviction

809.470 When judgment considered settled for purposes of suspension requirements

809.480 Division driver improvement program; purpose; suspension; fee

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

809.500 Failure to return suspended, revoked or canceled license; penalty

HABITUAL OFFENDERS

809.600 Number and kind of offenses

809.610 Notice; advisory meeting

809.640 Division procedures on habitual offender determination

809.650 Effect of habitual offender revocation

809.660 Restoration of privileges

VEHICLE IMPOUNDMENT

809.700 Court-ordered impoundment; grounds; duration; vehicles subject; return; security interest holder rights

809.710 Authority to refuse to release vehicle to intoxicated person

CROSS REFERENCES

Financial responsibility law, Ch. 806

Ignition interlock device, court-ordered installation, effect, 1987 c.746

Juvenile court, handling of motor vehicle offenses, 419.535 to 419.541

Misrepresentation of age by minor using driving license or permit, 165.805

Traffic offense proceedings generally, Chs. 153, 810

Unauthorized use of motor vehicle, 164.135

Uncollectible check procedures, 802.170, 802.180

809.050

Future responsibility filing proof to be returned by Motor Vehicles Division if registration surrendered, 806.250

809.280

Effect of certain suspensions on liability insurance, 742.449, 742.562, 742.566

Warning about effect on driving privileges of failure to appear for court hearing, 153.550

809.380

Return of license suspended under financial responsibility law, penalty for failure, 806.300

809.410

Court appearance required where conviction will result in mandatory revocation or suspension, 153.540

Driver license compact, same effect given to certain offenses as in home state, 802.550

Driving under influence of intoxicants:

Suspension for refusal of implied consent, 813.410

Suspension upon conviction, 813.400

False statements regarding interest in motor vehicles, criminal penalty, 803.070

Mental or physical infirmities of drivers, reports to Motor Vehicles Division by Health Division and hospital superintendent, 807.700, 807.710

Offense of driving uninsured, 806.010

Records of any conviction resulting in mandatory revocation or suspension to be kept by division, 153.625, 802.200

809.440

Driving record as prima facie evidence in hearing or appeal, 802.240

809.480

Reinstatement fees for administration of driver improvement program, 802.160

809.490

Reciprocal agreements for disposition of traffic offenses, 802.530

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 811.182; 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; 1987 c.730 §13]

Note: The amendments to 809.010 by section 30, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

809.010. A court shall order the Motor Vehicles Division to suspend the registration of a motor vehicle required to be registered by the division 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 811.182; 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 required to be registered by the division of which the convicted person is the owner.

(b) Any vehicle required to be registered by the division 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.

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 employee 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. 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:

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

(2) If the registration is not recovered under this subsection, proceed as provided under ORS 802.170. [1983 c.338 §289; 1985 c.16 §119; 1991 c.459 §438j]

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, by registered mail or by certified mail with return receipt. When service is by registered or certified 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; 1991 c.249 §73]

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]

CANCELLATION OF REGISTRATION FOR CERTAIN OFFENSES

Note: Chapter 891, Oregon Laws 1989, as amended by chapter 702, Oregon Laws 1991, takes effect January 1, 1990, and is repealed on January 1, 1994. The text is set forth for the user's convenience.

Sec. 1. (1) Sections 2 to 11 of this Act become effective on January 1, 1990, and are repealed on January 1, 1994.

(2) From January 1, 1990, until January 1, 1994, the provisions of sections 2 to 11 of this Act supersede any conflicting provisions of law.

(3) The definitions in ORS chapter 801 apply to sections 2 to 11 of this Act. [1989 c.891 §1]

Sec. 2. (1) Except as provided in subsection (2) of this section, a police officer shall confiscate any registration card for a vehicle that is found in the vehicle and shall mark each registration plate of the vehicle with a sticker in accordance with procedures prescribed by rule by the division if the driver of the vehicle is arrested for, or issued a citation for:

(a) Driving while suspended or revoked that is a felony under ORS 811.182 (3);

(b) Driving while suspended or revoked if the suspension or revocation was for any violation of the financial responsibility laws of this state; or

(c) Operating without driving privileges in violation of ORS 807.010.

(2) This section does not apply to a vehicle driven by a person issued a citation for operating without driving privileges in violation of ORS 807.010 if the person's driver license has been expired for one year or less from the date that the citation is issued.

(3) Registration plates marked under this section shall be clearly distinguishable from other plates issued by this state.

(4) Upon confiscation of any registration card under this section, or marking of plates, the officer shall issue the driver a temporary registration that expires 60 days after the date of arrest or citation. The division shall provide police departments and agencies with temporary registrations for issuance as required under this section.

(5) The officer shall provide the driver with written notice of the circumstances under which the division may cancel the vehicle registration. Notice shall be on a form prepared and provided by the division and shall contain the information required by section 5 of this Act.

(6) Within a period of time determined by the division by rule, the officer shall report action taken under this section to the division and shall deliver to the division any confiscated registration card and a copy of the notice of intent to cancel registration. [1989 c.891 §2]

Note: The amendments to section 2, chapter 891, Oregon Laws 1989, by section 32, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, until January 1, 1994, is set forth for the user's convenience.

Sec. 2. (1) Except as provided in subsection (2) of this section, a police officer shall confiscate any registration card for a vehicle that is found in the vehicle and shall mark each registration plate of the vehicle with a sticker in accordance with procedures prescribed by rule by the division if the driver of the vehicle is arrested for, or issued a citation for:

(a) Driving while suspended or revoked that is a felony under ORS 811.182 (3);

(b) Driving while suspended or revoked if the suspension or revocation was for any violation of the financial responsibility laws of this state; or

(c) Operating without driving privileges in violation of ORS 807.010.

(2) This section does not apply:

(a) To a vehicle driven by a person issued a citation for operating without driving privileges in violation of ORS 807.010 if the person's driver license has been expired for one year or less from the date that the citation is issued.

(b) To a vehicle registered under the provisions of ORS chapter 768.

(3) Registration plates marked under this section shall be clearly distinguishable from other plates issued by this state.

(4) Upon confiscation of any registration card under this section, or marking of plates, the officer shall issue the driver a temporary registration that expires 60 days after the date of arrest or citation. The division shall provide police departments and agencies with temporary registrations for issuance as required under this section.

(5) The officer shall provide the driver with written notice of the circumstances under which the division may cancel the vehicle registration. Notice shall be on a form prepared and provided by the division and shall contain the information required by section 5, chapter 891, Oregon Laws 1989.

(6) Within a period of time determined by the division by rule, the officer shall report action taken under this section to the division and shall deliver to the division any confiscated registration card and a copy of the notice of intent to cancel registration. [1989 c.891 §2; 1991 c.407 §32]

Sec. 3. Any police officer who sees a vehicle with registration plates marked as provided in section 2 of this Act being operated on a highway or on premises open to the public may stop the vehicle for the sole purpose of ascertaining whether the driver is operating the vehicle in violation of ORS 811.175 or 811.182. Nothing in this section prohibits the arrest or citation of a person for an offense if the officer has probable cause to believe the person has committed the offense. [1989 c.891 §3]

Sec. 4. (1) Upon receipt of a report from a police officer of action taken under section 2 of this Act, the division shall:

(a) Determine from its records whether the driving privileges of the driver were suspended or revoked for one of the reasons described in section 2 of this Act; and

(b) Determine whether the driver was an owner of the vehicle that the driver was driving at the time of the arrest or citation under section 2 of this Act.

(2) If both conditions of subsection (1) of this section are met, the division shall cancel the registration of the vehicle. Cancellation shall take effect 60 days after the arrest or citation under section 2 of this Act. Cancellation shall remain in effect until the driving privileges of the driver have been restored and the driver submits a valid application and all required fees for registration of the vehicle, including the restoration fee under section 10 of this Act, or until another person who is qualified to do so registers the vehicle.

(3) Cancellation of registration under this section does not affect the right of any person to transfer or acquire title to, or any interest in, the vehicle or the right of any person other than the driver to become the registered owner of the vehicle.

(4) If the records of the division show that the driving privileges of the driver were suspended or revoked for one of the reasons described in section 2 of this Act but the driver was not an owner of the vehicle at the time the registration plates were marked, the division shall promptly notify the registered owner by first class mail to the address shown on the records of the division of the action taken under section 2 of this Act. The division shall not cancel the registration of a vehicle if the driver who was arrested or issued a citation under section 2 of this Act was not an owner of the vehicle at the time of the arrest or citation. Upon payment by the registered owner of the replacement sticker fee and the restoration fee under section 10 of this Act, if applicable, the division shall issue replacement stickers and shall either return any confiscated registration card to a registered owner notified under this subsection or issue a new card without cost to the owner. The replacement stickers may be used by the registered owner to replace the stickers placed on the registration plate under section 2 of this Act.

(5) If the records of the division show that the driving privileges of the driver were not suspended or revoked for one of the reasons specified in section 2 of this Act at the time of the action taken under section 2 of this Act, the division shall notify the driver or the registered owner, if other than the driver, that registration will not be canceled and shall issue replacement stickers at no cost to the driver or registered owner. The stickers and any confiscated registration card, or a new card if the division determines that is more convenient, shall be given to the registered owner as soon as possible after the determination made under this subsection.

(6) If the driver of a vehicle that had plates marked under section 2 of this Act produces a driver license, driver permit or other evidence of a grant of driving privileges that is valid at the time it is produced, the division shall not cancel the registration of the vehicle and, upon payment by the registered owner of the replacement sticker fee and the restoration fee under section 10 of this Act, shall issue replacement stickers for the vehicle and shall either return any confiscated registration card or issue a new one at no cost to the owner of the vehicle.

(7) Nothing in this section requires the division to issue a registration card or stickers for a vehicle if registration for that vehicle has expired. [1989 c.891 §4]

Sec. 5. Notice given by a police officer under section 2, chapter 891, Oregon Laws 1989, shall:

(1) Specify the grounds for cancellation of the registration; and

(2) Inform the person that registration will not be canceled if the person has or gets a valid driver license or permit and of the procedure for obtaining replacement stickers and card under those circumstances. [1989 c.891 §5; 1991 c.702 §15]

Sec. 7. (1) A cancellation order issued under section 4, chapter 891, Oregon Laws 1989, shall remain in effect pending any appeal or remand of the order and there shall be no stay of the cancellation pending appeal or remand.

(2) A person shall have the right to appeal any final order by the division by filing a petition in the circuit court for the county where the person resides or, if the person does not reside in Oregon, in the circuit court of the county in which the arrest or citation took place within 30 days after issuance of the final order of the division. Appeal shall be as provided in section 8, chapter 891, Oregon Laws 1989. [1989 c.891 §7; 1991 c.702 §16]

Sec. 8. (1) The petition to the circuit court appealing a cancellation order of the division shall state the nature of the petitioner's interest and the ground or grounds upon which the petitioner contends the order should be reversed or remanded.

(2) The court shall conduct the review without a jury. Review shall be limited to the record of the administrative review proceeding on which the division's action was based.

(3) Any party to the proceedings before the circuit court may appeal from the judgment of the court to the Court of Appeals.

(4) Upon review in the circuit court and Court of Appeals, the court may affirm, reverse or remand the order as follows:

(a) If the court finds that the division has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(A) Set aside or modify the order; or

(B) Remand the case to the division for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the division if it finds the division's exercise of discretion to be any of the following:

(A) Outside the range of discretion delegated to the agency by law.

(B) Inconsistent with a division rule, an officially stated division position or a prior division practice if the inconsistency is not explained by the division.

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if it finds that the order is not supported by substantial evidence in the record.

(5) Upon review, the court shall affirm the division's order unless the court finds a ground for setting aside, modifying or remanding to the division under a specified provision of this section. [1989 c.891 §8; 1991 c.702 §17]

Sec. 9. (1) A person commits the offense of removal of special stickers if the person removes stickers put on the registration plates of a vehicle under section 2 of this Act before the division has issued replacement stickers for the vehicle.

(2) The offense described in this section, removal of special stickers, is a Class C traffic infraction. [1989 c.891 §9]

Sec. 10. (1) Whenever the registered owner of a vehicle is required to pay for replacement plates or stickers under the provisions of this Act or when a driver reregisters a vehicle under the provisions of subsection (2) of section 4 of this Act, the division shall charge a restoration fee in addition to any other fees charged for the transaction.

(2) The fee charged under this section shall be an amount to be determined by the division by rule, designed to recover the division's costs under this Act, except that the fee may not exceed $5. [1989 c.891 §10]

Sec. 11. Nothing in this Act authorizes placement of stickers under section 2 of this Act on vehicles with out-of-state registration plates. [1989 c.891 §11]

Sec. 12. The division shall report to the Sixty-seventh Legislative Assembly on the effectiveness of this Act. [1989 c.891 §12]

Note: Sections 18 and 19, chapter 702, Oregon Laws 1991, provide:

Sec. 18. Section 19 of this Act is added to and made a part of sections 2 to 11, chapter 891, Oregon Laws 1989. [1991 c.702 §18]

Sec. 19. The records the division uses to determine that registration is subject to cancellation under the provisions of sections 2 to 11, chapter 891, Oregon Laws 1989, constitute a prima facie case. The division may rescind a cancellation order at any time based solely on evidence offered to the division by a petitioner. [1991 c.702 §19]

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]

Note: The amendments to 809.120 by section 31, chapter 407, Oregon Laws 1991, become operative January 1, 1993. See section 39, chapter 407, Oregon Laws 1991. The text that is operative on and after January 1, 1993, is set forth for the user's convenience.

809.120. (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 if the vehicle is required to be registered by the division. 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.

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]

809.140 Administrative review of suspension, revocation or cancellation. (1) Unless otherwise specifically provided by law, a person whose vehicle registration or driving privileges are suspended, revoked or canceled by the division on the basis of a conviction is entitled to administrative review of the action rather than to a formal hearing by the division.

(2) Actions by the division based on something other than a conviction may be subject to administrative review rather than a formal hearing if specifically provided by law. [1991 c.702 §2]

DRIVING PRIVILEGES

(Court-ordered or Recommended)

809.200 [1983 c.338 §389; repealed by 1987 c.730 §23]

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.

(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 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.

(5) A court shall not issue notice under this section to implement procedures under ORS 809.290 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; 1991 c.702 §5]

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 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.

(2) In any notice to the division under this section, a court shall certify that the defendant failed to comply with ORS 153.540.

(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; 1989 c.161 §1; 1991 c.702 §6]

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, 813.400 or 813.403, 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; 1991 c.185 §5]

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, 809.240 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; 1987 c.730 §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]

Note: The amendments to 809.260 by section 3, chapter 835, Oregon Laws 1991, take effect October 1, 1992. See section 9, chapter 835, Oregon Laws 1991. The text in effect on and after October 1, 1992, is set forth for the user's convenience.

809.260. (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 delivery, manufacture or possession of controlled substances or the possession, use or abuse of alcohol.

(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.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

(3) Upon receipt of an order under this section the Motor Vehicles Division shall take action as directed under ORS 809.280.

Note: Section 8, chapter 835, Oregon Laws 1991, provides:

Sec. 8. Section 2 of this Act and the amendments to ORS 807.250, 807.370, 809.260 and 809.280 by sections 3 to 6 of this Act apply to persons convicted on and after the effective date of this Act [October 1, 1992]. [1991 c.835 §8]

Note: Section 2, chapter 835, Oregon Laws 1991, takes effect on October 1, 1992, and provides:

Sec. 2. Suspension for controlled substances convictions. (1) Unless the court finds compelling circumstances not to order suspension of driving privileges, the court in which a person is convicted of an offense described in this subsection shall prepare and send to the division, within 24 hours of the conviction, an order of suspension of driving privileges of the person. This subsection applies when a person is convicted of:

(a) Any crime, violation, infraction or other offense involving manufacturing, possession or delivery of controlled substances.

(b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance if the person was under the influence of a controlled substance.

(2) Upon receipt of an order under this section, the division shall take action as directed under ORS 809.280. [1991 c.835 §2]

(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.

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

(3) When a court notifies the division under ORS 809.130, of an unsettled judgment, the division shall suspend 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.

(4) When a court 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.

(5) When a court 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.

(6) 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.

(7) 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 (6) of this section because of the issuance of the order.

(8) When a court orders suspension of driving privileges under ORS 165.805 or 471.430, the division shall impose the suspension as ordered by the court. [1983 c.338 §362; 1985 c.16 §177; 1985 c.597 §23; 1985 c.669 §12; 1987 c.730 §15; 1991 c.860 §3]

Note: The amendments to 809.280 by section 4, chapter 835, Oregon Laws 1991, take effect October 1, 1992. See section 9, chapter 835, Oregon Laws 1991. The text that is in effect on and after October 1, 1992, is set forth for the user's convenience.

809.280. 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.

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

(3) When a court notifies the division under ORS 809.130 of an unsettled judgment, the division shall suspend 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.

(4) When a court 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.

(5) When a court 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.

(6) 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.

(7) 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 (6) of this section because of the issuance of the order.

(8) When a court orders suspension of driving privileges under ORS 165.805 or 471.430, the division shall impose the suspension as ordered by the court.

(9) When a court orders a suspension of driving privileges under section 2, chapter 835, Oregon Laws 1991, the division shall immediately suspend all driving privileges of the person. Upon receipt of an order suspending driving privileges, the division shall impose a suspension for six months. If the person does not have valid driving privileges at the time of the conviction, the division shall delay issuance of driving privileges to the person for a period of six months after the date the person applies for the privileges and is otherwise eligible for them.

Note: See note under 809.260.

809.290 Persons subject to coercive procedures; duration. This section establishes circumstances that will make a person subject to suspension under ORS 809.410 (24) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:

(1) A person is subject to suspension under ORS 809.410 (24) if 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 809.410 (24) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court, the division shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the division with the documentation required by this subsection.

(2) A person is subject to suspension under ORS 809.410 (24) if 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 809.410 (24) for failure to pay a fine relating to any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court, the division shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the division with the documentation required by this subsection.

(3) A person is subject to suspension under ORS 809.410 (24) if the 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; 1991 c.702 §7]

Note: Section 27 (2), chapter 702, Oregon Laws 1991, provides:

Sec. 27. If a court issues notice to the Motor Vehicles Division to implement procedures under ORS 809.290 and the failure to appear, to comply or to pay a fine that triggered the notice from the court occurred prior to the effective date of this Act [July 31, 1991], the division shall implement the coercive procedures that were in effect prior to the effective date of this Act. [1991 c.702 §27 (2)]

809.300 [1985 c.669 §7; repealed by 1991 c.702 §20]

(Cancellation)

809.310 Cancellation of driving privileges; grounds; surrender of license or permit; duration; reissuance of privileges. (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. The division may reissue driving privileges canceled under this subsection when the applicant has satisfied all requirements for the driving privileges sought.

(2) The division may cancel any driving privileges issued by it upon determining that the person issued the driving privileges 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.

(e) Used the license or permit of another in violation of ORS 807.600.

(f) Displayed or permitted to be displayed any license or driver permit that the person knows is fictitious or fraudulently altered.

(3) Except under such conditions and circumstances as the division may by rule provide to avoid undue hardship to the person, the division shall not issue, within one year following the date of the cancellation, any driving privileges or license or permit evidencing driving privileges to a person whose driving privileges are canceled under subsection (2) of this section.

(4) 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.

(5) 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; 1987 c.272 §1]

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. [1983 c.338 §347; 1985 c.669 §11; 1991 c.702 §24]

(Refusal to Issue or Renew)

809.340 [1985 c.396 §3; repealed by 1991 c.702 §20]

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 by law.

(5) Whenever the division or a court has reason under any laws of this state to suspend the commercial driver license of any person who does not hold a current commercial driver license or whose commercial driver license is due to expire during a suspension period, the division or court shall suspend the right of such person to apply for a commercial driver license in this state. A suspension of a right to apply for a commercial driver license under this subsection shall be for the period provided by law.

(6) Notwithstanding any other provision of law, a person who holds a farm indorsement described in ORS 807.035 while operating within the limitations of the indorsement is not subject to suspension of

a commercial driver license or of the right to apply for a commercial driver license for any offense that would subject the driver of a commercial motor vehicle to such sanction. Nothing in this subsection prohibits suspension of the person's Class C driver license or the right to apply for such a license. [1983 c.338 §348; 1987 c.272 §2; 1989 c.636 §34]

809.370 Authority of juvenile court. A determination by a juvenile court that a child within its jurisdiction has committed any act that is grounds for suspension or revocation of driving privileges under ORS 809.410 or has violated any other 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; 1991 c.317 §1]

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, a hardship 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 ORS 809.410 for failure to take an examination upon request of the division under ORS 807.340.

(b) The suspension occurred under ORS 809.410 for failure to obtain required medical clearance upon request of the division under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.410 for incompetence to drive a motor vehicle or having a mental or physical condition rendering it unsafe for a person to drive a motor vehicle.

(d) The suspension occurred under ORS 809.410 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.410 upon notification by a court under ORS 153.625 that a person charged with a traffic offense has been found guilty except for insanity.

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

(g) The suspension was the result of an error committed by an insurance company in issuing or failing to issue a certification of insurance or in canceling a certification of insurance filed with the division under ORS 806.270.

(h) The division issued the suspension without error because the person failed to respond as required under ORS 806.160 or to furnish proof of exemption under ORS 806.210 from the filing requirement of ORS 806.200, 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 or at the time of an accident described in ORS 806.200.

(i) 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 or at the time of an accident described in ORS 806.200, 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 or at the time of the accident.

(j) 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.

(k) The suspension occurred because the person failed to make future responsibility filings but the division later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the division for failure to make a future responsibility filing. [1983 c.338 §350; 1985 c.16 §164; 1985 c.173 §1; 1985 c.393 §9; 1985 c.669 §17a; 1985 c.714 §8; 1987 c.137 §3; 1987 c.258 §8; 1987 c.272 §3; 1987 c.801 §7; 1989 c.224 §139; 1991 c.474 §1]

Note: Section 2, chapter 474, Oregon Laws 1991, provides:

Sec. 2. The amendments to ORS 809.380 by section 1 of this Act apply to persons applying for reinstatement of driving privileges on and after the effective date of this Act [July 10, 1991]. [1991 c.474 §2]

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 a hardship 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; 1987 c.801 §8]

809.400 Suspension or revocation for out-of-state conviction. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, 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 jurisdiction 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. A suspension or revocation under this subsection shall be initiated within 30 days of receipt of notice of the conviction. Violation of a suspension or revocation imposed under this subsection shall have the same legal effects and consequences as it would if the offense committed in the other jurisdiction had been committed in this jurisdiction.

(b) The division may not suspend or revoke driving privileges under this subsection unless notice of conviction is received within 180 days of the date of the conviction.

(2) The division may 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. Violation of the suspension or revocation shall have the same legal effects and consequences as it would if the suspension or revocation had been imposed initially in this state upon the same grounds. 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 or the restoration of driving privileges in that jurisdiction.

(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.

(3)(a) The division may suspend the commercial driver license of a resident of this state upon receiving notice of the conviction of such person in another jurisdiction of an offense therein that, if committed in this state, would be grounds for the suspension of the person's commercial driver license. The period of suspension under this paragraph shall be the same as would be imposed on the person if the conviction were for an offense committed in this state.

(b) The division may suspend the commercial driver license of a resident of this state upon receiving notice that the person's commercial driving privileges have been suspended or revoked in another jurisdiction for reasons that would be grounds for suspension of the person's commercial driver license in this state. The period of suspension under this paragraph shall be the same as would be imposed on the person if the violation were committed in this state.

(4) A person is entitled to administrative review of a suspension under this section. [1983 c.338 §352; 1987 c.272 §4; 1987 c.730 §16; 1989 c.171 §90; 1989 c.398 §1; 1989 c.636 §35; 1991 c.595 §1; 1991 c.702 §11]

809.405 Suspension of provisional driver license. In addition to any other provision of law, if a person issued a provisional driver license pursuant to ORS 807.065:

(1) Is convicted of a traffic offense described in ORS 809.600 (2) or (4), the division shall mail the person a letter warning the person of the provisions of this section.

(2) Is convicted of a traffic offense described in ORS 809.600 (2) or (4) and the person has previously been convicted of a traffic offense, the division shall suspend the person's provisional driver license unless the person completes a driver improvement program established by the division under ORS 809.480 within a time specified by the division.

(3) Is convicted of a traffic offense described in ORS 809.600 (2) or (4) and the person has twice previously been convicted of a traffic offense, the division shall suspend the person's provisional driver license until the person completes a driver improvement program established by the division under ORS 809.480 and the division determines that the person is adequately reformed.

(4) Is convicted of an offense described in ORS 809.600 (1), the division shall suspend the person's provisional driver license and shall not reinstate it. No driving privileges shall be issued to a person whose license is suspended under this subsection until the person reaches 18 years of age or until the person is otherwise eligible for reinstatement of suspended privileges, whichever comes later. [1989 c.715 §4]

809.410 Grounds for suspension and revocation; whether mandatory or permissive; duration. This section, ORS 813.400 and 813.403 establish grounds for the suspension and revocation of driving privileges and commercial driver licenses 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 and administrative review procedures for this section, ORS 813.400 and 813.403 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) A person is entitled to administrative review of a revocation under this subsection.

(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) A person is entitled to administrative review of a suspension under this subsection.

(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) A person is entitled to administrative review of a revocation under this subsection.

(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) A person is entitled to administrative review of a revocation under this subsection.

(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) A person is entitled to administrative review of a revocation under this subsection.

(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) A person is entitled to administrative review of a suspension under this subsection.

(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) A person is entitled to administrative review of a suspension under this subsection.

(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) A person is entitled to administrative review of a suspension under this subsection.

(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 or for five years from the date of suspension, whichever is sooner.

(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.

(c) A person whose initial suspension under this subsection is not based upon a conviction is entitled to a contested case hearing. A person whose suspension under this subsection is based upon a conviction is entitled to administrative review. A person whose suspension under this subsection is based on subsequent lapses in filing is entitled to administrative review.

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

(c) A person is entitled to administrative review of a suspension under this subsection.

(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 because of a mental or physical condition 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 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. A suspension under this paragraph shall be subject to a post-imposition hearing under ORS 809.440 except that a person who has submitted a certificate of eligibility under ORS 807.090 is entitled only to administrative review of a suspension.

(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) A conviction under ORS 811.700 or 811.705 for failure to perform the duties of a driver while operating a commercial motor vehicle or any conviction of a crime punishable as a felony involving the operation of a commercial motor vehicle constitutes grounds for commercial driver license suspension. 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 commercial driver license or right to apply for a commercial driver license of the person convicted.

(b) The suspension shall be for a period of time according to the following:

(A) If the person's commercial driver license has not previously been suspended under this subsection, ORS 813.403 or 813.410 (2) and the person was not driving a commercial motor vehicle containing a hazardous material at the time the offense was committed, the suspension shall be for a period of one year.

(B) If the person's commercial driver license has not previously been suspended under this subsection, ORS 813.403 or 813.410 (2) and the person was driving a commercial motor vehicle containing a hazardous material at the time the offense was committed, the suspension shall be for a period of three years.

(C) If the person's commercial driver license has previously been suspended under this subsection, ORS 813.403 or 813.410 (2), the suspension shall be for the lifetime of the person.

(c) A person is entitled to administrative review of a suspension under this subsection.

(19) Use of a commercial motor vehicle in the commission of a crime punishable as a felony involving the manufacturing, distributing or dispensing of a controlled substance constitutes grounds for commercial driver license suspension. 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 commercial driver license or right to apply for a commercial driver license of the person convicted.

(b) The suspension shall be for the lifetime of the person.

(c) A person is entitled to administrative review of a suspension under this subsection.

(d) "Controlled substance" has the meaning given that term in ORS 475.005 (6).

(20) 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.

(21) 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 except that the division shall not reinstate any driving privileges to the person until the person complies with future responsibility filing requirements.

(22) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive, the division shall immediately suspend the driving privileges of the released person. A suspension under this subsection is subject to administrative review and shall continue until such time as the person produces a judicial decree of competency or a certificate from the superintendent of the hospital that the person is competent or establishes eligibility under ORS 807.090.

(23) Upon notification by a court under ORS 153.625 that a person charged with a traffic offense has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board, the division shall immediately suspend the driving privileges of the person. A suspension under this subsection is subject to administrative review and shall continue until such time as the person establishes eligibility under ORS 807.090.

(24) The division shall suspend driving privileges when provided under ORS 809.290. 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 suspension.

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

(c) A person is entitled to administrative review of a suspension under this subsection.

(25) 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) A person is entitled to administrative review of a suspension under this subsection.

(26) Agreements entered under ORS 802.530 may establish grounds and procedures for the suspension of driving privileges.

(27) Violation of restrictions placed on driving privileges under ORS 807.120 or 809.310 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 receives satisfactory evidence that the person has violated restrictions placed on the person's driving privileges. 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, but in no event for longer than one year, and shall be subject to any conditions the division determines necessary.

(28)(a) The division shall suspend driving privileges as provided under ORS 809.405.

(b) The suspension shall continue until the person reaches 18 years of age or until the suspension is terminated as provided in ORS 809.405.

(c) A person is entitled to administrative review of a suspension under this subsection.

(29) Upon receipt of a record of a person's second conviction of a serious traffic violation within a three-year period, the division shall suspend the person's commercial driver license or right to apply for a commercial driver license if the convictions arose out of separate incidents. A suspension under this subsection shall be for a period of 60 days. A person is entitled to administrative review of a suspension under this subsection.

(30) Upon receipt of a record of a person's third or subsequent conviction of a serious traffic violation within a three-year period, the division shall suspend the person's commercial driver license or right to apply for a commercial driver license if the convictions arose out of separate incidents. A suspension under this subsection shall be for a period of 120 days. A person is entitled to administrative review of a suspension under this subsection. [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; 1987 c.137 §4; 1987 c.258 §9; 1987 c.262 §4; 1989 c.224 §140; 1989 c.636 §31; 1989 c.715 §6; 1991 c.702 §10]

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) Ninety days for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) One year for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period.

(c) Three years for a third or subsequent offense where the commission of the third or subsequent offense and two or more convictions for separate offenses occur within a five-year period.

(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) One year for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) Three years for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period.

(c) Three years for a third or subsequent offense, where the commission of the third or subsequent offense and a conviction for a separate offense occur within a five-year period. [1983 c.338 §354; 1987 c.547 §1; 1989 c.401 §1]

809.430 Notice of suspension, cancellation or revocation; contents; service. (1) When the division, as authorized or required, suspends, revokes or cancels driving privileges, a commercial driver license or the right to apply for driving privileges or a commercial driver license, it shall give notice under this section of such action to the person whose driving privileges, commercial driver license 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) If violation of a suspension or revocation would constitute the offense described in ORS 811.182, service of notice of the suspension or revocation 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.

(4) Service of notice under this section for all other actions is accomplished by:

(a) Mailing the notice by first class mail 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; 1989 c.636 §36; 1989 c.801 §1; 1991 c.695 §1]

809.440 Hearing and administrative review procedures. This section establishes hearing and administrative review procedures to be followed when the division is required to provide a hearing or an administrative review of an action:

(1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.410, 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 administrative review is provided under any statute or rule of the division:

(a) An administrative review shall consist of an informal administrative process to assure prompt and careful review by the division of the documents upon which an action is based.

(b) It shall be a defense to the division's action if a petitioner can establish that:

(A) A conviction on which the division's action is based was for an offense that did not involve a motor vehicle.

(B) An out-of-state conviction on which the division's action is based was for an of-

fense that is not comparable to an offense under Oregon law.

(C) The records relied on by the division identify the wrong person.

(c) A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the action.

(d) Actions subject to administrative review shall be exempt from the provisions of ORS 183.310 to 183.550 applicable to contested cases, and from the provisions of subsection (4) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation shall not be stayed during the administrative review process or by the filing of a petition for judicial review. A court having jurisdiction may order the suspension, revocation or cancellation stayed pending judicial review.

(e) Judicial review of a division order affirming a suspension or revocation after an administrative review shall be available as for review of orders other than contested cases, and the division may not be subject to default for failure to appear in such proceedings. The division shall certify its record to the court within 20 days after service upon the division of the petition for judicial review.

(f) If the suspension or revocation is upheld on review by a court, the suspension or revocation shall be imposed for the length of time appropriate under the appropriate statute except that the time shall be reduced by any time prior to the determination by the court that the suspension or revocation was in effect and was not stayed.

(g) The division shall adopt any rules governing administrative review that are considered necessary or convenient by the division.

(3) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the division by rule. The procedures may include a limited time in which the person may request a hearing, requirements for telephone hearings, expedited procedures for issuing orders and expedited notice procedures.

(4) When permitted under ORS 809.410, 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) Unless there is an agreement between the person and the division that the hearing be conducted elsewhere, the hearing shall be held either in the county where the person resides or at any place within 100 miles, as established by the division by rule.

(5) The division has complied with a requirement for a hearing or administrative review if the division has provided an opportunity for hearing or review and the person with the right to the hearing or review has not requested it. Any request for hearing or review must be made in writing.

(6) For any hearing described under this section, and for administrative review 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 or review and of the suspension or revocation. [1985 c.669 §4 (enacted in lieu of 1983 c.338 §§356, 357); 1987 c.437 §1; 1989 c.636 §37; 1991 c.702 §3]

809.450 Rescission of suspension for financial and future responsibility violations; grounds; hearing. (1) If a person whose driving privileges have been suspended for one of the reasons specified in subsection (2) of this section requests that the suspension be rescinded and specifies the reason for the request, the division may provide a hearing to determine the validity of the suspension. The division may rescind a suspension only as provided in subsection (3) of this section.

(2) This section applies to suspensions under ORS 809.410 for the following:

(a) Failure to make a future responsibility filing;

(b) False certification of financial responsibility requirements; and

(c) Involvement in a motor vehicle accident when the division has determined that the person has been operating a vehicle in violation of ORS 806.010.

(3) 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;

(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; or

(e) That at the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements and the person is currently in compliance with financial responsibility requirements.

(4) The hearing shall be held in the manner provided in ORS 809.440. [1985 c.714 §11; 1987 c.258 §10]

809.460 Rescission of suspension or revocation upon appeal of underlying conviction. (1) Except as provided in subsection (3) of this section, 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.

(3) If a person's commercial driver license was suspended under ORS 809.410 (18) or (19) or 813.403, the division shall not rescind suspension of the person's commercial driver license because the person has taken an appeal, unless the conviction is reversed on appeal. [1983 c.338 §359; 1985 c.16 §174; 1989 c.636 §38]

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.

(5) A person is entitled to administrative review of a suspension imposed under this section if based on a conviction. [1983 c.338 §368; 1985 c.16 §190; 1991 c.702 §12]

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) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

(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 ORS 811.010 to 811.050, 811.100, 811.112 to 811.135, 811.123, 811.145 to 811.170, 811.175, 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, 815.232, 815.270, 820.220, 820.310 or 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 substan-

tially conforms to offenses described in this section. [1983 c.338 §365; 1985 c.16 §179; 1987 c.730 §17; 1987 c.887 §7; 1989 c.592 §6; 1991 c.601 §5; 1991 c.728 §4]

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 attempt to notify the licensee and offer the licensee an opportunity of an advisory meeting with a representative of the division. The notice shall be accomplished by mailing the notice by first class mail.

(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; 1989 c.15 §1]

809.620 [1985 c.16 §183; 1989 c.15 §2; repealed by 1991 c.702 §20]

809.630 [1985 c.16 §185; repealed by 1991 c.702 §20]

809.640 Division procedures on habitual offender determination. 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 revoke the driving privileges of the person. A person is entitled to administrative review of a revocation under this section. [1983 c.338 §367; 1985 c.16 §187; 1991 c.702 §12a]

Note: Section 27 (1), chapter 702, Oregon Laws 1991, provides:

Sec. 27. (1) If the conviction or bail forfeiture that finally subjects a person to the habitual offender provisions of ORS 809.600 occurs prior to the effective date of this Act [July 31, 1991], the person shall be subject to the habitual offender provisions in effect prior to the effective date of this Act. [1991 c.702 §27 (1)]

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]

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 811.182; 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 ve-

hicle 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; 1987 c.730 §18]

809.710 Authority to refuse to release vehicle to intoxicated person. Notwithstanding 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]