

Enrolled
House Bill 3055

Sponsored by JOINT COMMITTEE ON TRANSPORTATION (at the request of Representative Susan McLain, Senator Lee Beyer)

CHAPTER

AN ACT

Relating to transportation; creating new provisions; amending ORS 184.657, 279A.142, 279C.307, 279C.335, 315.591, 319.240, 319.665, 319.671, 319.890, 319.950, 320.400, 346.510, 367.010, 367.095, 367.105, 367.555, 367.560, 367.615, 367.806, 367.816, 381.312, 383.001, 383.003, 383.004, 383.009, 383.014, 383.015, 383.017, 383.035, 383.045, 383.075, 383.150, 757.357, 801.133, 803.102, 803.210, 803.525, 803.530, 806.040, 806.070, 806.200, 806.240, 807.072, 807.173, 807.175, 809.120, 809.130, 809.310, 809.440, 809.510, 809.515, 809.520, 809.545, 809.700, 810.180, 810.530, 811.182, 811.260, 811.602, 811.604, 811.605, 811.613, 811.616, 813.055, 813.130, 813.410, 813.460, 815.045, 815.140, 815.145, 819.010, 819.016, 824.022, 824.026, 824.060, 824.068, 824.088, 824.990, 824.992, 825.400, 825.402, 825.410, 825.415, 825.490, 825.496, 825.960 and 836.055; repealing ORS 184.631, 383.006, 383.013, 383.023, 383.065, 383.155, 809.010, 809.020, 809.030, 809.040, 809.050, 809.080, 824.104, 825.404, 825.412 and 825.418 and sections 2 and 3, chapter 24, Oregon Laws 2018; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

IN GENERAL

SECTION 1. ORS 811.602, as amended by section 2, chapter 413, Oregon Laws 2019, is amended to read:

811.602. (1) A disabled person parking permit is a means of identifying vehicles being used to exercise the parking privileges described in ORS 811.635. The following are disabled person parking permits:

- (a) A special decal described in ORS 811.605 issued by the Department of Transportation to be affixed to a golf cart or substantially similar vehicle;
- (b) An individual placard described in ORS 811.605;
- (c) A program placard issued by the department under ORS 811.607;
- (d) A family placard issued by the department under ORS 811.609;
- (e) A foreign visitor placard issued by the department under ORS 811.611;
- (f) A "Wheelchair User" placard or decal issued by the department under ORS 811.613; and
- (g) An "Oregon Wounded Warrior" placard or decal issued by the department under ORS 811.616.

(2) The department shall issue a disabled person parking permit in the form of a decal or individual placard to any person who submits an application that complies with ORS 811.604. Nothing in this section prohibits the department from issuing a decal or individual placard to a person who

has disabled veteran registration plates issued under ORS 805.100 and who qualifies for the decal or placard.

(3) Except as otherwise provided in this subsection, the department may not issue more than one individual placard to an applicant. The department may issue a replacement placard upon receipt of proof satisfactory to the department that the original placard has been lost, mutilated or destroyed. The department may issue a temporary duplicate permit to a person who needs a duplicate permit for travel purposes. A temporary duplicate permit shall be valid for **up to** 120 days. The department shall adopt rules governing application for and issuance of temporary duplicate permits. Nothing in this subsection prohibits issuance of an individual placard to a person who has been issued a decal.

[(4) Permits issued under this section may be renewed by mail.]

[(5)] (4) Permits for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities are issued as provided in ORS 811.607.

[(6)] (5) Except as provided in subsection [(7)] (6) of this section, the department shall determine the form, size and content of any decal or placard issued under this section and shall adopt rules governing their issuance, display and use as necessary to carry out this section.

[(7)(a)] (6)(a) Except as provided in paragraph (b) of this subsection, the department may not require a decal or placard issued under this section to an individual or a family to contain any identifying information about the person to whom the decal or placard is issued, including any of the following:

- (A) Name;
- (B) Address;
- (C) Telephone number;
- (D) Social Security number;
- (E) Driver license number;
- (F) Golf cart driver permit number;
- (G) Identification card number;
- (H) Passport or visa number; or
- (I) Photograph.

(b) The department may require a decal or placard issued under this section to an individual or a family to contain not more than four digits of the driver license or identification card number of the person to whom the decal or placard is issued.

SECTION 2. Section 3 of this 2021 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 3. The Department of Transportation shall invalidate a disabled parking permit issued under ORS 811.602 if any of the following occurs:

(1) **The department receives information that the person issued an individual or "Wheelchair User" placard or permit has since obtained a driver license or driver permit issued by another jurisdiction or has since obtained an identification card in another jurisdiction that is similar to the person's identification card issued by this state.**

(2) **The department receives notice that the person issued a disabled parking permit is deceased.**

(3) **The department determines that the disabled parking permit was issued under fraudulent circumstances.**

(4) **The department determines that the person, program or family for which the permit was issued no longer qualifies for the permit.**

SECTION 4. ORS 811.604 is amended to read:

811.604. Application for issuance or renewal of a disabled person parking permit in the form of an individual placard or decal issued under ORS 811.602 shall include:

(1) A certificate, signed and dated within six months preceding the date of application, by a licensed physician, a licensed nurse practitioner or a licensed physician assistant to the Department of Transportation that the applicant is a person with a disability or a certificate, signed and dated

within six months preceding the date of application, by a licensed optometrist that the applicant is a person with a disability because of loss of vision or substantial loss of visual acuity or visual field beyond correction;

(2) The state-issued licensing number of the licensed physician, certified nurse practitioner, licensed physician assistant or licensed optometrist who signed the certificate described in subsection (1) of this section; and

(3) The number of a [*current, valid*] driver license, [*golf cart*] driver permit, identification card or parking identification card issued to the applicant by the department.

SECTION 5. ORS 811.605 is amended to read:

811.605. (1) An applicant for an individual placard or decal issued by the Department of Transportation under ORS 811.602 must have a driver license, a [*disability golf cart*] driver permit, an identification card or a parking identification card issued by the department. [*The placard or decal shall be valid so long as the license, permit, identification card or parking identification card is valid and may be renewed when the license, permit or card is renewed.*]

(2) An individual placard or decal shall contain an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle. [*The expiration date shall be the same as the expiration date of the driver license, golf cart driver permit, identification card or parking identification card of the holder of the placard.*]

(3) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule.

SECTION 6. ORS 811.613 is amended to read:

811.613. (1) The Department of Transportation shall issue a “Wheelchair User” disabled person parking permit in the form of a “Wheelchair User” placard or decal for use by a person who uses a wheelchair or similar low-powered motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.

(2) The department shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:

(a) Include the words “Wheelchair User.”

(b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.

(3) The department shall by rule determine how a person may qualify for a “Wheelchair User” placard or decal under this section.

(4) An applicant for a “Wheelchair User” placard or decal issued by the department under this section must have a driver license, a [*disability golf cart*] driver permit or an identification card issued by the department. [*The placard or decal shall be valid as long as the license, permit or identification card is valid and may be renewed when the license, permit or identification card is renewed.*]

[*(5) The expiration date shall be the same as the expiration date of the driver license, disability golf cart driver permit or identification card of the holder of the placard or decal.*]

(5) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule.

SECTION 7. ORS 811.616 is amended to read:

811.616. (1) The Department of Transportation shall issue an “Oregon Wounded Warrior” disabled person parking permit in the form of an “Oregon Wounded Warrior” placard or decal for use by a wounded warrior.

(2) A person is a wounded warrior who qualifies for an “Oregon Wounded Warrior” parking permit if the person:

(a) Submits written proof to the Department of Transportation of having a United States Department of Veterans Affairs total disability rating of at least 50 percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service; and

(b) Received a discharge or release under other than dishonorable conditions.
(3) The Department of Transportation shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:

(a) Include the words "Oregon Wounded Warrior."

(b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.

(4) The Department of Transportation shall by rule determine how a person may apply for an "Oregon Wounded Warrior" placard or decal under this section.

(5) An applicant for an "Oregon Wounded Warrior" placard or decal issued by the Department of Transportation under this section must have a driver license, a *[disability golf cart]* driver permit or an identification card issued by the department. *[The placard or decal shall be valid as long as the license, permit or identification card is valid and may be renewed when the license, permit or identification card is renewed.]*

[(6) The expiration date shall be the same as the expiration date of the driver license, disability golf cart driver permit or identification card of the holder of the placard or decal.]

(6) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule.

SECTION 8. ORS 819.016 is amended to read:

819.016. (1) Except as provided in subsection (2) of this section, when the provisions of ORS 819.010, 819.012 or 819.014 require a person to surrender to the Department of Transportation a certificate of title for a vehicle, or when a person acquires a vehicle under the provisions of ORS 819.215, the person shall apply to the department for a salvage title for the vehicle. The application shall comply with the requirements of ORS 803.140.

(2) When the person is not required to surrender a certificate of title because title for the vehicle was issued in some other form, the person shall follow procedures adopted by the department by rule.

[(3) Subsections (1) and (2) of this section do not apply if the person does not intend to rebuild or repair the vehicle, to transfer the vehicle or to use the frame or unibody of the vehicle for repairing or constructing another vehicle.]

(3) Subsections (1) and (2) of this section do not apply if the person:

(a) Does not intend to rebuild or repair the vehicle, to transfer the vehicle or to use frame or unibody of the vehicle for repairing or constructing another vehicle; or

(b) Rebuilds or repairs the vehicle and applies to title the vehicle with the designation of assembled, reconstructed or replica.

SECTION 9. ORS 824.068 is amended to read:

824.068. (1) The Department of Transportation shall prescribe standards for water quality *[and sanitation facilities]* on railroad locomotives *[and cabooses]* in this state.

(2) The department may for good cause shown permit variances from the standards so prescribed.

SECTION 10. ORS 319.665 is amended to read:

319.665. (1) The seller of fuel for use in a motor vehicle shall collect the tax provided by ORS 319.530 at the time the fuel is sold, unless one of the following situations applies:

[(a) The Department of Transportation has issued a weight identifier under ORS 825.450 for the vehicle into which the seller delivers or places the fuel.]

(a) The Department of Transportation has issued for the vehicle into which the seller delivers or places the fuel a weight identifier under ORS 825.450 or a valid user's emblem under ORS 319.600.

(b) The fuel is dispensed at a nonretail facility, in which case the seller shall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A seller is not required to collect the tax under this paragraph

from a person who certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(c) A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under ORS 319.530.

(2) If a cardlock card is used for purchase of fuel at an attended portion of a retail facility equipped with a cardlock card reader, the seller at the retail facility may deduct fuel purchases made with a cardlock card from the seller's retail transactions if the seller provides the department with the following information:

(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases at the retail facility; and

(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the issuers' customers.

(3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which sets forth the tax imposed on given quantities of fuel.

SECTION 11. ORS 319.671 is amended to read:

319.671. (1) The seller of fuel for any purpose shall make a duplicate invoice for every sale of fuel for any purpose and shall retain one copy and give the other copy to the user. The Department of Transportation may prescribe the form of the invoice. The invoice shall show:

(a) The seller's name and address;

(b) The date;

(c) The amount of the sale in gallons; and

(d) The name and address of the user.

(2) In addition to the invoice entries listed in subsection (1) of this section, the seller of fuel for use in a motor vehicle shall indicate on the invoice the amount of the tax collected, if any, and:

(a) The license plate number, if the vehicle bears a license plate issued by the department or another jurisdiction;

(b) The emblem number, if the vehicle bears a user's emblem; *[or]*

(c) The temporary pass number, if the vehicle bears no valid user's emblem *[or license plate issued by the department.]*; **or**

(d) The license plate number, if the vehicle bears no valid user's emblem or temporary pass number issued by the department.

(3) Notwithstanding subsection (1) of this section, this section does not require any invoice to be prepared for any sale where fuel is delivered into the fuel tank of a vehicle described in this subsection unless the operator of the vehicle requests an invoice. If an invoice is prepared under this subsection, the name and address of a user is not required to be shown on the invoice for sales where the fuel is delivered into the fuel tanks of vehicles described in this subsection. This subsection applies to vehicles:

(a) That have a combined weight of 26,000 pounds or less; and

(b)(A) For which the tax under ORS 319.530 must be paid at the time of sale under ORS 319.665; or

(B) For which an emblem has been issued under ORS 319.535.

SECTION 12. ORS 819.010 is amended to read:

819.010. (1) A person commits the offense of failure to comply with requirements for destruction of a vehicle if the person wrecks, dismantles[,] **or** disassembles *[or substantially alters]* the form of any vehicle that is or is required to be registered or titled under the vehicle code or under ORS chapter 826 and the person does not comply with all of the following:

(a) The person must give notice to the Department of Transportation, in a form specified by the department, of the person's intention to dismantle, disassemble[,] **or** wreck *[or substantially alter]* the form of the vehicle at least seven days prior to commencement thereof.

(b) If the vehicle is visible from a public right of way, the person must complete the wrecking, dismantling[,] or disassembling [or *substantial alteration*] of **the form of the vehicle** within 30 days from the commencement thereof.

(c) If the vehicle is registered by this state, the person must deliver or mail to the department the registration card, certificate of title, if one has been issued, and registration plates of the vehicle within 30 days after the person wrecks, dismantles[,] or disassembles [or *substantially alters*] the form of the vehicle.

(d) If no certificate of title has been issued for the vehicle, the person must notify the department in a manner determined by the department by rule within 30 days after the person wrecks, dismantles[,] or disassembles [or *substantially alters*] the form of the vehicle.

(e) If required to do so under ORS 819.016, the person shall apply for a salvage title for the vehicle.

(2) This section does not apply to persons who are acting within the scope of a dismantler certificate issued under ORS 822.110.

(3) The offense described in this section, failure to comply with requirements for destruction of vehicle, is a Class A misdemeanor.

SECTION 13. ORS 319.950 is amended to read:

319.950. (1) **The governing body of** a city, county or other local government may enact or amend any charter provision, ordinance, resolution or other provision taxing fuel for motor vehicles after submitting the proposed tax to the electors of the local government for their approval.

(2) **The governing body of a local government that imposes a tax on fuel for motor vehicles pursuant to this section may enter into an intergovernmental agreement under ORS 190.010 with the Department of Transportation pursuant to which the department shall collect and distribute the revenues from the tax.**

SECTION 14. **The amendments to ORS 319.950 by section 13 of this 2021 Act apply to intergovernmental agreements entered into on or after January 1, 1977, by the governing body of a city, county or other local government with the Department of Transportation for purposes of the collection and distribution of revenues from taxes on fuel for motor vehicles by the department.**

SECTION 15. ORS 346.510 is amended to read:

346.510. As used in ORS 346.510 to 346.570:

(1) "Cafeteria" means a food-dispensing facility:

- (a) That can provide a variety of prepared foods and beverages;
- (b) Where a patron may move through a self-service line;
- (c) That may employ some servers to wait on patrons; and
- (d) That provides seating suitable for patrons to consume meals.

(2) "Healthy vending item" and "local vending item" have the meanings given those terms by rules adopted by the Commission for the Blind in consultation with the Public Health Director and the business enterprise consumer committee.

(3) "Person who is blind" means a person who has not more than 20/200 visual acuity in the better eye with best correction or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision to such a degree that its widest diameter subtends an angle of no greater than 20 degrees and whose blindness is certified by a licensed physician who specializes in diseases of the eye.

(4) "Political subdivision" means a local government as defined in ORS 174.116, a municipality, town or village of this state.

(5) "Public building" or "property" means a building, land or other real property, or a portion of a building, land or other real property, that is occupied by a department or an agency of the State of Oregon or by a political subdivision, except for a public elementary school, a secondary school, a public university listed in ORS 352.002 or a public corporation created pursuant to ORS 353.020.

(6) "Vending facility" means:

(a) Shelters, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment that are necessary or customarily used for the vending of articles, including an established mix of healthy vending items approved by the Commission for the Blind and the agency, department or political subdivision charged with maintaining the public building or property where the vending facility is located;

(b) Vending machines; or

(c) Cafeterias or snack bars for the dispensing of foodstuffs and beverages.

(7) "Vending facility manager" means a person who is:

(a) Blind;

(b) Responsible for the day-to-day conduct of the vending facility operation; and

(c) Licensed under ORS 346.510 to 346.570.

(8) "Vending machine" means a manual or coin-operated machine or a similar device used for vending articles, including machines or devices that accept electronic payment.

(9) "Visitor venue" means a public building or property that is operated by a political subdivision of this state and that is:

(a) A convention, event or exposition center;

(b) A zoo;

(c) A performing arts center;

(d) A museum;

(e) A golf course;

(f) A facility primarily used for sporting events; or

(g) A commercial airport owned and operated by a city, a county or a port district organized under ORS chapter 778.

SECTION 16. ORS 811.260 is amended to read:

811.260. Except as provided in ORS 811.265 (2), a driver is in violation of ORS 811.265 if the driver makes a response to traffic control devices that is not permitted under the following:

(1) Green signal. A driver facing a green light may proceed straight through or turn right or left unless a sign at that place prohibits either turn. A driver shall yield the right of way to other vehicles within the intersection at the time the green light is shown.

(2) Green arrow. A driver facing a green arrow signal light, shown alone or in combination with another signal, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other signals shown at the same time.

(3) Green bicycle signal. A bicyclist facing a green bicycle signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. The bicyclist shall yield the right of way to other vehicles within the intersection at the time the green bicycle signal is shown.

(4) Steady circular yellow signal. A driver facing a steady circular yellow signal light is thereby warned that the related right of way is being terminated and that a red or flashing red light will be shown immediately. A driver facing the light shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.

(5) Steady yellow arrow signal. A driver facing a steady yellow arrow signal, alone or in combination with other signal indications, is thereby warned that the related right of way is being terminated. Unless entering the intersection to make a movement permitted by another signal, a driver facing a steady yellow arrow signal shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.

(6) Steady yellow bicycle signal. A bicyclist facing a steady yellow bicycle signal is thereby warned that the related right of way is being terminated and that a red bicycle signal will be shown immediately. A bicyclist facing a steady yellow bicycle signal shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the inter-

section, or if there is no marked crosswalk, then before entering the intersection. If a bicyclist cannot stop in safety, the bicyclist may proceed cautiously through the intersection.

(7) Steady circular red signal. A driver facing a steady circular red signal light alone shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The driver shall remain stopped until a green light is shown except when the driver is permitted to proceed under ORS 811.360.

(8) Steady red arrow signal. A driver facing a steady red arrow signal, alone or in combination with other signal indications, may not enter the intersection to make the movement indicated by the red arrow signal. Unless entering the intersection to make some other movement which is permitted by another signal, a driver facing a steady red arrow signal shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The vehicle shall remain stopped until a green light is shown except when the driver is permitted to proceed under ORS 811.360.

(9) Steady red bicycle signal. A bicyclist facing a steady red bicycle signal shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The bicyclist shall remain stopped until a green bicycle signal is shown except when the bicyclist is permitted to proceed under ORS 811.360.

(10) Traffic control devices at places other than intersections. If a traffic control device that is a signal is erected and maintained at a place other than an intersection, the provisions of this section relating to signals shall be applicable. A required stop shall be made at a sign or marking on the roadway indicating where the stop shall be made, but in the absence of such sign or marking the stop shall be made at the signal.

(11) Flashing red signal. When a driver approaches a flashing red light used in a traffic control device or with a traffic sign, the driver shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. The right to proceed shall be subject to the rules applicable after making a stop at a stop sign. This subsection does not apply to:

(a) A person operating a bicycle; or

(b) Drivers at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(12) Flashing circular yellow signal. [*When a driver approaches a flashing circular yellow light used as a signal in a traffic control device or with a traffic sign, the driver may proceed through the intersection or past the signal only with caution.*] **When a driver facing a flashing circular yellow signal approaches an intersection, the driver may cautiously enter the intersection to proceed straight through, turn right or turn left except as such movement is modified by lane use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications or other traffic control devices.** This subsection does not apply at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(13) Flashing yellow arrow signal. A driver facing a flashing yellow arrow signal, alone or in combination with other signal indications, may cautiously enter the intersection only to make the movement indicated by the flashing yellow arrow signal or the movement permitted by other signals shown at the same time. A driver shall yield the right of way to other vehicles within the intersection at the time the flashing yellow arrow signal is shown. In addition, a driver turning left shall yield the right of way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when the turning vehicle is moving across or within the intersection.

(14) Lane direction control signals. When lane direction control signals are placed over the individual lanes of a highway, a person may drive a vehicle in any lane over which a green signal light is shown, but may not enter or travel in any lane over which a red signal light is shown.

(15) Stop signs. A driver approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection or, if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching so close as to constitute an immediate hazard during the time when the driver is moving across or within the intersection. This subsection does not apply to a person operating a bicycle.

(16) Yield signs. A driver approaching a yield sign shall slow the driver's vehicle to a speed reasonable for the existing conditions and if necessary for safety, shall stop at a line as required for stop signs under this section, and shall yield the right of way to any vehicles in the intersection or approaching so closely as to constitute an immediate hazard.

(17) Flashing yellow beacon. When a flashing yellow beacon is used to supplement another traffic control device, a driver shall pay extra attention to the message provided by the beacon and follow the requirements of the other traffic control device, which might not be otherwise applicable at all times.

NOTE: Section 17 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 18. ORS 825.402 is amended to read:

825.402. (1) Except as provided in subsection (4) of this section, all motor carriers that are domiciled in Oregon and that receive a certificate or permit from the Department of Transportation for the first time on or after July 1, 1990, shall participate in the program established under ORS 825.400.

(2) A motor carrier required by subsection (1) of this section to participate in the program must do so within 90 days of the date on which it receives a certificate or permit from the department.

(3) In addition to motor carriers required to participate in the program established under ORS 825.400, the department may require participation by any motor carrier that:

- (a) Has underpaid its tax obligation for the use of the highways by 15 percent or more;
- (b) Exceeds by more than 15 percent, in a one-year period, the industry average for out-of-service violations for vehicle inspection or for accidents per mile; or
- (c) Receives, in a one-year period, two or more citations for being 10,000 pounds or more overweight.

(4) Subsection (1) of this section does not apply to a carrier receiving a certificate or permit for the first time on or after July 1, 1990, if the carrier is a successor in interest to a carrier that held a certificate or permit prior to that date.

(5) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to have at least one person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier participate in the program. No rule shall require the participation of a motor carrier more than one time except for motor carriers required to participate under subsection (3) of this section.

(6) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to attend at least eight hours of classroom instruction. The instruction may be provided in person or by an interactive, instructor-led webinar.

SECTION 19. ORS 825.400 is amended to read:

825.400. (1) The Department of Transportation shall [*adopt rules to*] establish a program for the education of motor carriers that covers, at a minimum, safety, weight mile tax and [*insurance*] **registration** and size and weight regulations administered by the department.

(2) The department may appoint agents to carry out the program established under this section.

(3) The department shall prescribe fees sufficient to defray the costs of the program. Agents appointed by the department may assess the fees.

(4) The department shall adopt rules to carry out the provisions of this section.

SECTION 20. ORS 825.404 is repealed.

SECTION 21. ORS 757.357 is amended to read:

757.357. (1) As used in this section:

(a) “Electric company” has the meaning given that term in ORS 757.600.

(b)(A) “Infrastructure measures” includes, but is not limited to, investments in, expenses related to or rebates for:

(i) Distribution system infrastructure that supports transportation electrification;

(ii) Communication and control technologies that support transportation electrification;
and

(iii) Behind-the-meter infrastructure that supports transportation electrification and is owned by an electric company or by a customer.

(B) “Infrastructure measures” does not include investments in or expenses related to education and outreach activities related to transportation electrification, or other transportation electrification-related activities determined by the Public Utility Commission to be separate and distinct from the development of infrastructure.

(c) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

[(b)] (d) “Transportation electrification” means:

(A) The use of electricity from external sources to provide power to all or part of a vehicle;

(B) Programs related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph; [and]

(C) Infrastructure [investments] measures related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph[.]; and

(D) Programs related to supporting the adoption and service of vehicles powered as described in subparagraph (A) of this paragraph.

[(c)] (e) “Vehicle” means a vehicle, vessel, train, boat or any other equipment that is mobile.

(2) The Legislative Assembly finds and declares that:

(a) Transportation electrification is necessary to reduce petroleum use, achieve optimum levels of energy efficiency and carbon reduction, meet federal and state air quality standards, meet this state’s greenhouse gas emissions reduction goals described in ORS 468A.205 and improve the public health and safety;

(b) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel;

(c) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel in low and moderate income communities;

(d) Widespread transportation electrification should stimulate innovation and competition, provide consumers with increased options in the use of charging equipment and in procuring services from suppliers of electricity, attract private capital investments and create high quality jobs in this state;

(e) Transportation electrification and the purchase and use of electric vehicles should assist in managing the electrical grid, integrating generation from renewable energy resources and improving electric system efficiency and operational flexibility, including the ability of an electric company to integrate variable generating resources;

(f) Deploying transportation electrification and electric vehicles creates the opportunity for an electric company to propose, to the [Public Utility] commission, that a net benefit for the customers of the electric company is attainable; and

(g) Charging electric vehicles in a manner that provides benefits to electrical grid management affords fuel cost savings for vehicle drivers.

(3)(a) The [Public Utility] commission shall direct each electric company to file [applications, in a form and manner prescribed by the commission, for programs to accelerate transportation electrification.];

(A) Applications for programs to support transportation electrification; and

(B) A plan, for acceptance by the commission, that integrates the electric company’s transportation electrification actions.

(b) The applications and plan must be filed in a form and manner prescribed by the commission.

(c) A program proposed by an electric company may include prudent investments in or customer rebates for electric vehicle charging and related infrastructure.

(4) The commission may allow an electric company to recover costs from retail electricity consumers for prudent infrastructure measures to support transportation electrification if the infrastructure measures are consistent with and meet the requirements of subsection (5) of this section.

(5) If undertaken by an electric company, an infrastructure measure to support transportation electrification is a utility service and a benefit to utility customers if the infrastructure measure can be reasonably anticipated to:

(a) Support reductions of transportation sector greenhouse gas emissions over time; and

(b) Benefit the electric company's customers in ways that may include, but need not be limited to:

(A) Distribution or transmission management benefits;

(B) Revenues to utilities from electric vehicle charging to offset utilities' fixed costs that may otherwise be charged to customers;

(C) System efficiencies or other economic values inuring to the benefit of customers over the long term; or

(D) Increased customer choice through greater transportation electrification infrastructure deployment to increase the availability of and access to public and private electric vehicle charging stations.

[4] **(6) When considering a transportation electrification program and determining cost recovery for investments and other expenditures that are not infrastructure measures and that are related to a program proposed by an electric company under subsection (3) of this section, the commission shall consider whether the investments and other expenditures:**

(a) Are within the service territory of the electric company;

(b) Are prudent as determined by the commission;

(c) Are reasonably expected to be used and useful as determined by the commission;

(d) Are reasonably expected to enable the electric company to support the electric company's electrical system;

(e) Are reasonably expected to improve the electric company's electrical system efficiency and operational flexibility, including the ability of the electric company to integrate variable generating resources; and

(f) Are reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services.

(7) In undertaking infrastructure measures that involve the installation of one or more electric vehicle charging stations, an electric company must allow for customer choice in the selection of the type of electric vehicle charging station to be installed, subject to equipment eligibility as determined by the electric company. An electric company may prequalify multiple types of eligible electric vehicle charging stations based on criteria determined by the electric company.

(8) Nothing in this section restricts or prohibits a corporation, company, partnership, individual or association of individuals exempt from regulation under ORS 757.005 (1)(b)(G) from furnishing electricity to any number of customers for use in motor vehicles.

[5(a)] **(9)(a) Tariff schedules and rates allowed pursuant to [subsection (3)] subsections (3) to (6) of this section:**

(A) May allow a return of and a return on an investment made by an electric company under [subsection (3)] subsections (3) to (6) of this section; and

(B) Shall be recovered from [all customers] the retail electricity consumers of an electric company in a manner [that is similar to the recovery of distribution system investments] determined by the commission.

(b) A return on investment allowed under this subsection may be earned for a period of time that does not exceed the depreciation schedule of the investment approved by the commission. When an electric company's investment is fully depreciated, the commission may authorize the electric company to donate the electric vehicle charging infrastructure to the owner of the property on which the infrastructure is located.

[6] (10) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility service to the customers of an electric company.

[7] (11) In authorizing programs described in subsection (3) of this section, the commission shall review data concerning current and future adoption of electric vehicles and utilization of electric vehicle charging infrastructure. If market barriers unrelated to the investment **or expenditures** made by an electric company prevent electric vehicles from adequately utilizing available electric vehicle charging infrastructure, the commission may not permit additional investments in **or expenditures related to supporting** transportation electrification without a reasonable showing that the investments **or expenditures** would not result in long-term stranded costs recoverable from the [customers] **retail electricity consumers** of electric companies.

SECTION 22. Section 23 of this 2021 Act and ORS 757.357 are added to and made a part of ORS chapter 757.

SECTION 23. (1) As used in this section, "natural gas utility" means a natural gas utility regulated by the Public Utility Commission under ORS chapter 757.

(2) The commission may allow a natural gas utility to recover costs from all retail natural gas customers for prudent investments in or expenses related to infrastructure measures that support the adoption and service of alternative forms of transportation vehicles if the investments or expenses are consistent with and meet the requirements of subsection (3) of this section. An investment or expense by a natural gas utility may include an investment in or an expense related to infrastructure behind the customer meter.

(3) An investment in or expense related to infrastructure measures that support the adoption and service of alternative forms of transportation vehicles is a utility service and a benefit to retail natural gas customers if the investment or expense can be reasonably anticipated to:

(a) Support the adoption of alternative vehicles that are powered by renewable natural gas or hydrogen;

(b) Support reductions of transportation sector greenhouse gas emissions over time; and

(c) Benefit the natural gas utility system. Benefits may include, but need not be limited to:

(A) Distribution or transmission management benefits;

(B) System efficiencies or other economic values inuring to the benefit of retail natural gas customers over the long term; or

(C) Revenues to natural gas utilities from fueling alternative forms of transportation vehicles to offset utilities' fixed costs that may otherwise be charged to retail natural gas customers.

SECTION 24. ORS 184.657 is amended to read:

184.657. (1) The Oregon Transportation Commission shall develop a set of uniform standards, in coordination with counties and cities, for the consistent description and reporting of the condition of the transportation infrastructure owned by the state, counties and cities. The infrastructure described must include pavement and bridges.

(2) By February 1 of each odd-numbered year, every city and county shall submit a report covering the condition of its transportation infrastructure.

(3) The commission shall periodically review the condition of the transportation infrastructure owned by the state and the reports submitted under this section. The commission shall post the reports and the commission's review of the reports on the website described in ORS 184.661.

(4) Notwithstanding ORS 366.762 to 366.768 or 366.785 to 366.820, any city or county failing to file a report under this section may not receive any payments from the State Highway Fund until the report is filed.

(5) Not later than [April] **June** 1 of each odd-numbered year, the commission shall submit a report about the state of the transportation infrastructure of Oregon, including the transportation infrastructure of cities and counties, to:

(a) The Legislative Assembly in the manner provided by ORS 192.245; and

(b) The Joint Committee on Transportation established under ORS 171.858.

SECTION 25. ORS 824.022 is amended to read:

824.022. (1) ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256 apply to:

(a) The transportation of passengers and property.

(b) The receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration [or *icing*,] and handling of such property, and all charges connected therewith.

(c) All railroad, terminal, car, tank line, freight and freight line companies.

(d) All associations of persons, whether incorporated or otherwise, that do business as common or for hire carriers upon or over any line of railroad within this state.

(e) Any common or for hire carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.

(2) ORS 824.020 to 824.042 do not apply to logging or other private railroads not doing business as common carriers.

(3) ORS 824.020 to 824.042 and 824.050 to 824.110 do not apply to corporations, companies, individuals, associations of individuals and their lessees, trustees or receivers that:

(a) Are primarily involved in a business enterprise other than rail transportation;

(b) Conduct rail operations 50 percent or more of which are for the purpose of providing transportation to the primary business enterprise;

(c) Operate on less than 10 miles of track; and

(d) Provide for hire rail transportation service to no more than five persons.

SECTION 26. ORS 824.026 is amended to read:

824.026. (1) The Department of Transportation shall employ at least three full-time railroad inspectors to assist the department as the department may prescribe in:

(a) Inquiring into any neglect or violation of and enforcing any law of this state or any law or ordinance of any municipality thereof relating to railroad safety;

(b) Inquiring into any neglect or violation of and enforcing any rule, regulation, requirement, order, term or condition issued by the department relating to railroad safety; and

(c) Conducting any investigative, surveillance and enforcement activities that the department is authorized to conduct under federal law in connection with any federal law, rule, regulation, order or standard relating to railroad safety.

(2) A railroad inspector may [stop and detain] **inspect** any train and the contents thereof that the railroad inspector reasonably believes is being operated in violation of any law, ordinance, rule, regulation, requirement, order, standard, term or condition referred to in subsection (1) of this section.

SECTION 27. ORS 824.060 is amended to read:

824.060. (1) Every locomotive [and *caboose*] of every railroad operating in this state shall be equipped with a first aid kit.

(2) **All locomotives shall be equipped with fire extinguishers meeting the following requirements:**

(a) **Each locomotive shall have at least one portable fire extinguisher.**

(b) **Fire extinguishers may be of a foam, dry chemical or carbon dioxide type.**

(c) **The fire extinguishers in each locomotive shall provide a minimum capacity of one and one-quarter gallons or five pounds. More than one fire extinguisher may be used to comply with the minimum capacity requirement under this paragraph.**

(d) **Fire extinguishers shall be placed in readily accessible locations.**

(e) Fire extinguishers shall be maintained in working order.

(3) A railroad may apply for a temporary exemption from the provisions of subsection (2) of this section. The Department of Transportation will consider the application of the railroad for a temporary exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted will be limited to a stated period of time.

SECTION 28. ORS 824.088 is amended to read:

824.088. (1) Each railroad that gives notice to the United States Department of Transportation of an incident that occurs during the course of transporting hazardous materials as defined by federal regulations shall also give notice of the incident to the Director of the Office of Emergency Management.

(2) As soon as reasonably practicable, each railroad shall notify the director by telephone or similar means of communication of any derailment or fire involving or affecting hazardous material.

(3) To facilitate expedited and accurate notice to the director under this section, each train transporting hazardous materials in this state shall be equipped with at least two radio transmitter-receivers in good working order. In addition, [18 months after October 4, 1977,] trains over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio handset in good working order capable of communicating with the radio transmitter-receivers. If the equipment required under this section does not function while the train is en route, the train may proceed to the next point of crew change where the equipment shall be replaced or repaired.

SECTION 29. ORS 824.992 is amended to read:

824.992. (1) Violation of ORS 824.062 is a Class D violation.

(2) Violation of ORS 824.064 is a Class A misdemeanor.

(3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class A violation.

(4) Violation of ORS 824.082 (2) is a Class A violation.

(5) As used in subsection (3) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022.

(6) Subject to ORS 153.022, violation of [ORS 824.104 (1)] **ORS 824.060 (2)**, 824.106 or 824.108 or any rule promulgated pursuant thereto is a Class A violation.

(7) A person is subject to the penalties under subsection (8) of this section if the person knowingly:

(a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates any terms of permit or authority issued to the person under ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under ORS 824.050 to 824.110 for the safe transportation of hazardous wastes.

(e) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(8) Subject to ORS 153.022, violation of subsection (7) of this section is a Class B misdemeanor. Each day's violation is a separate offense.

(9) Violation of ORS 824.300 or 824.302 is a Class D violation.

(10) Violation of ORS 824.304 is a Class A violation.

(11) Violation of ORS 824.306 by any railroad company or officer or agent thereof, or any other person is a Class D violation. Each day's violation is a separate offense.

SECTION 30. ORS 803.102 is amended to read:

803.102. (1) As used in this section:

(a) "Transferee" means any person to whom ownership of a motor vehicle is transferred by purchase, gift or any other means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferee.

(b) "Transferor" means any person who transfers ownership of a motor vehicle by sale, gift or any means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferor.

(2) Except as otherwise provided in this section, upon transfer of any interest in a motor vehicle, an odometer disclosure statement shall be made by the transferor to the transferee. The disclosure shall be in a form that complies with the provisions of ORS 803.120 and shall contain the information required under ORS 803.122.

(3) If a transfer requiring a disclosure statement involves a leased vehicle, the lessor shall notify the lessee that the lessee is required to provide odometer disclosure. The lessee shall furnish the lessor with a form that complies with the requirements of ORS 803.120 and shall provide the information required by ORS 803.122 except that for purposes of the required information, the lessee shall be considered the transferor, the lessor shall be considered the transferee and the date shall be the date of the disclosure statement.

(4) Where an interest in a vehicle is transferred by operation of law, the Department of Transportation shall determine by rule whether an odometer disclosure statement is required and if so, who is required to provide it.

[(5) The odometer disclosure requirements of this section do not apply upon transfer of an interest where the transfer is due solely to the creation, release or assignment of a security interest, or upon transfer of an interest in any of the following:]

[(a) A vehicle with a gross vehicle weight rating of more than 16,000 pounds.]

[(b) A vehicle that is not self-propelled.]

[(c) A vehicle that is at least 10 years old.]

[(d) A vehicle that is sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.]

[(e) A vehicle that is exempted from the requirement by rules of the department.]

(5) The department, by rule, may exempt vehicles from the odometer disclosure requirements of this section in accordance with federal laws, rules or regulations pertaining to odometer disclosure requirements.

(6) A person may provide an odometer reading to the department, in the manner prescribed by the department by rule, for a vehicle that is 10 years old or older.

SECTION 31. The amendments to ORS 803.102 by section 30 of this 2021 Act become operative on January 1, 2022.

SECTION 32. ORS 803.210 is amended to read:

803.210. (1) The Department of Transportation shall not issue title for a vehicle described in subsection (2) of this section unless:

(a) An inspection of the vehicle identification number or numbers of the vehicle is performed in accordance with ORS 803.212; and

(b) The fee established under ORS 803.215 is paid to the department for the inspection.

(2) Except as provided in subsection (3) of this section, the requirements of this section apply to all of the following:

(a) A vehicle from another jurisdiction.

(b) Any assembled or reconstructed vehicle.

(c) Any vehicle if the certificate of title has been or is required to be submitted to the department, or a person is required to report to the department, under ORS 819.010, 819.012, 819.014 or 819.030.

(d) Any vehicle if the department has received notice that the vehicle has been or will be wrecked, dismantled, disassembled or substantially altered under ORS 819.010 or 822.135.

(e) Replicas.

(f) Other than a racing activity vehicle as defined in ORS 801.404, any vehicle the department has reason to believe was not certified by the original manufacturer as conforming to federal vehicle standards.

(3) The requirements of this section do not apply to the following vehicles if the person shown as the owner on an out-of-state title for the vehicle applies for an Oregon title in that person's name:

(a) A rental truck, rental truck tractor or rental trailer that is registered in Oregon under an interstate agreement that provides that a portion of the owner's fleet is to be registered in each state in which the fleet operates.

(b) A trailer or semitrailer that has permanent registration.

(4) The requirement to inspect a vehicle identification number or numbers of the vehicle under subsection (1) of this section does not apply to park model recreation vehicles, as defined in ORS 803.036.

SECTION 33. ORS 807.072 is amended to read:

807.072. (1) The Department of Transportation, by rule, may waive any examination, test or demonstration required under ORS 807.065 (1)(b) or 807.070 (2) or (3) if the department receives satisfactory proof that the person required to take the examination, test or demonstration has passed an examination, test or demonstration approved by the department that:

(a) Is given in conjunction with a traffic safety education course certified by the department under ORS 336.802;

(b) Is given in conjunction with a motorcycle rider education course established under ORS 802.320;

(c) Is given in conjunction with a course conducted by a commercial driver training school certified by the department under ORS 822.515; or

(d) Is given in conjunction with an application for a special limited vision condition learner's permit under ORS 807.359.

(2) The department, by rule, may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a commercial driver license or a Class C license if the person holds a valid out-of-state license or applies for an Oregon license within one year of the expiration of a valid out-of-state license. A demonstration may be waived under this subsection only if the person has applied for the same driving privileges as those granted under the person's out-of-state license or for privileges granted by a lower class of license.

(3) The department may waive the actual demonstration required under ORS 807.070 for a person who is applying for a commercial driver license, an endorsement related to a commercial driver license or the removal of a restriction from a commercial driver license:

(a) If the person has been certified, as defined by rule, under ORS 807.080 or a similar statute of another jurisdiction as competent to safely exercise the driving privileges granted by a Class A commercial driver license, a Class B commercial driver license or a Class C commercial driver license; or

(b) Under circumstances, established by the department by rule, that establish the person's ability to drive without an actual demonstration.

(4) The department may issue a Class A farm endorsement without requiring additional tests to a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to the department that the person is experienced in driving a vehicle that may be driven only by persons who have a Class A commercial driver license and the person's two-part driving record does not show either a traffic accident within two years of the date of application for the endorsement or a conviction for one of the following traffic crimes within five years of the date of application for the endorsement:

(a) Reckless driving, as defined in ORS 811.140.

(b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(c) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(d) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(5) The department may issue a Class B farm endorsement without requiring additional tests to a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to the department that the person is experienced in driving a vehicle that may be driven only by persons who have a Class B commercial driver license and the person's two-part driving record does not show either a conviction for a traffic crime specified in subsection (4) of this section within five years of the date of application for the endorsement or a traffic accident within two years of the date of application for the endorsement.

(6) The department by rule may establish other circumstances under which a farm endorsement may be issued without an actual demonstration. The authority granted by this subsection includes, but is not limited to, authority to adopt rules specifying circumstances under which the endorsement may be granted to a person despite the appearance of traffic accidents on the person's record.

(7) The department by rule may waive the test required under ORS 807.070 (2) for a person who applies for a motorcycle endorsement if the person:

(a) Holds a valid out-of-state driver license that authorizes the person to operate a motorcycle; [or]

(b) Applies for a motorcycle endorsement within one year after the expiration date of a valid out-of-state driver license that authorizes the person to operate a motorcycle[.]; or

(c) Completes a motorcycle rider education course outside of this state that is approved by the department by rule:

(A) While temporarily residing outside of this state; and

(B) The person is domiciled in this state as described in ORS 803.355 or is a resident as described in ORS 807.062.

(8) The department by rule may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels.

SECTION 34. ORS 320.400 is amended to read:

320.400. As used in ORS 320.400 to 320.490 and 803.203:

(1)(a) "Bicycle" means:

(A) A vehicle that is designed to be operated on the ground on wheels **for the transportation of humans** and is propelled exclusively by human power; or

(B) An electric assisted bicycle as defined in ORS 801.258.

(b) "Bicycle" does not include:

(A) Carts;

(B) Durable medical equipment;

(C) In-line skates;

(D) Roller skates;

(E) Skateboards;

(F) Stand-up scooters;

(G) Strollers designed for the transportation of children;

(H) Trailer cycles or other bicycle attachments; or

(I) Wagons.

(2)(a) "Retail sales price" means the total price paid at retail for a taxable vehicle, exclusive of the amount of any excise, privilege or use tax, to a seller by a purchaser of the taxable vehicle.

(b) "Retail sales price" does not include the retail value of:

(A) Modifications to a taxable vehicle that are necessary for a person with a disability to enter or drive or to otherwise operate or use the vehicle.

(B) Customized industrial modifications to the chassis of a truck that has a gross vehicle weight rating of at least 10,000 pounds and not more than 26,000 pounds.

(3) "Seller" means:

(a) With respect to the privilege tax imposed under ORS 320.405 and the use tax imposed under ORS 320.410, a vehicle dealer.

(b) With respect to the excise tax imposed under ORS 320.415, a person engaged in whole or in part in the business of selling bicycles.

(4) "Taxable bicycle" means a new bicycle that has a retail sales price of \$200 or more.

(5) "Taxable motor vehicle" means a vehicle that:

(a) Has a gross vehicle weight rating of 26,000 pounds or less;

(b)(A) If equipped with an odometer, has 7,500 miles or less on the odometer; or

(B) If not equipped with an odometer, has a manufacturer's certificate of origin or a manufacturer's statement of origin; and

(c) Is:

(A) A vehicle as defined in ORS 744.850, other than an all-terrain vehicle or a trailer;

(B) A camper as defined in ORS 801.180;

(C) A commercial bus as defined in ORS 801.200;

(D) A commercial motor vehicle as defined in ORS 801.208;

(E) A commercial vehicle as defined in ORS 801.210;

(F) A fixed load vehicle as defined in ORS 801.285;

(G) A moped as defined in ORS 801.345;

(H) A motor home as defined in ORS 801.350;

(I) A motor truck as defined in ORS 801.355;

(J) A tank vehicle as defined in ORS 801.522;

(K) A trailer as defined in ORS 801.560 that is required to be registered in this state;

(L) A truck tractor as defined in ORS 801.575; or

(M) A worker transport bus as defined in ORS 801.610.

(6) "Taxable vehicle" means a taxable bicycle or a taxable motor vehicle.

(7) "Transportation project taxes" means the privilege tax imposed under ORS 320.405, the use tax imposed under ORS 320.410 and the excise tax imposed under ORS 320.415.

(8)(a) "Vehicle dealer" means:

(A) A person engaged in business in this state that is required to obtain a vehicle dealer certificate under ORS 822.005; and

(B) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.

(b) Notwithstanding paragraph (a) of this subsection, a person is not a vehicle dealer for purposes of ORS 320.400 to 320.490 and 803.203 to the extent the person:

(A) Conducts an event that lasts less than seven consecutive days, for which the public is charged admission and at which otherwise taxable motor vehicles are sold at auction; or

(B) Sells an otherwise taxable motor vehicle at auction at an event described in this paragraph.

SECTION 35. The amendments to ORS 320.400 by section 34 of this 2021 Act apply to taxable bicycles sold before, on or after the effective date of this 2021 Act.

NOTE: Sections 36 to 41 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 41a. ORS 836.055 is amended to read:

836.055. (1) In operating an airport or air navigation facility owned or controlled by the state, the Oregon Department of Aviation, as authorized by the State Aviation Board, may enter into contracts, leases and other arrangements, for a term not exceeding 30 years *[with any persons]* **for noncommercial arrangements or 50 years for commercial arrangements:**

(a) Granting the privilege of using or improving *[such]* **the** airport or air navigation facility, or any portion or facility *[thereof]* **of**, or space *[therein]* **in, the airport or air navigation facility**, for commercial purposes;

(b) Conferring the privilege of supplying goods, commodities, things, services or facilities at *[such]* **the** airport or air navigation facility; or

(c) Making available services to be furnished by the department or its agents at *[such]* **the** airport or air navigation facility.

(2) In each [*such*] case the department may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the state; provided, that in no case shall the public be deprived of its rightful, equal and uniform use of the airport, air navigation facility, or portion or facility [*thereof*] **of the airport or air navigation facility.**

SECTION 41b. The amendments to ORS 836.055 by section 41a of this 2021 Act apply to contracts, leases and other arrangements entered into on or after the effective date of this 2021 Act.

SECTION 42. ORS 807.175 is amended to read:

807.175. (1) The Department of Transportation may not issue a motorcycle endorsement to a person unless the person shows to the satisfaction of the department that the person has successfully completed a motorcycle rider education course established by the department under ORS 802.320. This requirement is in addition to any other requirement for the endorsement.

(2) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:

(a) Currently holds a motorcycle endorsement issued by another state; or

(b) Is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels.

(3) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:

(a) Is temporarily residing outside of this state;

(b) Is domiciled in this state as described in ORS 803.355 or is a resident as described in ORS 807.062; and

(c) Completes a motorcycle rider education course outside of this state that is approved by the department by rule.

SECTION 43. ORS 815.140 is amended to read:

815.140. (1) A person commits the offense of failure to use vehicle traction tires or chains if the person drives or moves or owns and causes or knowingly permits to be driven or moved any motor vehicle or trailer on any highway if the highway is posted showing conditions that require vehicle traction tires or chains and the vehicle is not equipped with vehicle traction tires or chains that are required for the posted conditions.

(2) Traction tires or chains that are referred to in this section are those established by rule under the authority granted under ORS 815.045.

(3) This section does not apply to vehicles exempted from this section under ORS 815.145.

(4) This section only applies to sections of highway on which a road authority requires the use of traction tires or chains and on which signs requiring the use of traction tires or chains have been posted as provided in ORS 815.045.

(5) A court [*shall*] **may** not find a person to be in violation of the offense described under this section if the court determines that the conditions of the highway at the time the person was cited did not require posting under rules adopted under ORS 815.045. The defense under this subsection may be affirmatively asserted by any person cited for violation of the offense described in this section.

[(6) The offense described in this section, failure to use vehicle traction tires or chains, is a Class C traffic violation.]

(6) The offense described in this section, failure to use vehicle traction tires or chains, is a specific fine traffic violation. The presumptive fine for failure to use vehicle traction tires or chains is \$880.

SECTION 44. ORS 315.591 is amended to read:

315.591. As used in ORS 315.591 to 315.606:

(1) "Infrastructure" includes tracks, switches, sidings, roadbeds, railroad bridges and industrial leads owned **or leased** by a short line railroad.

(2) "Short line railroad" means a class II or class III railroad as defined in 49 C.F.R. 1201.

(3) "Short line railroad rehabilitation project" means a project that involves the maintenance, reconstruction or replacement of infrastructure.

(4) "Short line railroad rehabilitation project costs" means costs that are directly related to the work necessary to maintain, reconstruct or replace infrastructure. "Short line railroad rehabilitation project costs" does not include costs that are funded by or used to qualify for any state or federal grants, or costs that are used to claim a federal tax credit.

(5) "Tier I short line railroad" means a short line railroad owned or leased by a person for whom the total length of short line railroad track owned or leased in Oregon is equal to or greater than 200 miles. The total amount of short line railroad track in Oregon calculated under this subsection includes any short line railroad track owned or leased by the person, or if the person is a corporation, by the person's parent corporation or subsidiaries, regardless of whether the track is owned or leased by one or more railroads.

(6) "Tier II short line railroad" means a short line railroad that is not a tier I short line railroad or is a short line railroad owned or leased by the state, a city, a county, a port or any other public or municipal corporation.

SECTION 45. The amendments to ORS 315.591 by section 44 of this 2021 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.

PUBLIC CONTRACTING

SECTION 46. ORS 279A.142 is amended to read:

279A.142. A contracting agency may, by appropriate ordinance, resolution, [or] rule **or other appropriate legislative action**, limit competition for a public contract to emerging small businesses certified under ORS 200.055 if the contract price is estimated at [~~\$100,000~~] **\$250,000** or less and is funded by the Emerging Small Business Account established under ORS 200.180.

NOTE: Section 47 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 48. ORS 279C.307 is amended to read:

279C.307. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)** of this section, a contracting agency that procures personal services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract that is subject to this chapter may not:

(a) Procure the personal services from a contractor or an affiliate of a contractor who is a party to the public contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the personal services; or

(b) Procure the personal services through the public contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the personal services.

(2) Subsection (1) of this section does not apply to a **combination of preconstruction services and construction services in a procurement for construction manager/general contractor services** or to a **combination of design services and construction services in a design-build procurement**, as defined in rules the Attorney General or a contracting agency adopts under ORS 279A.065.

(3)(a) If a contracting agency anticipates that the contracting agency must procure personal services of the type described in subsection (1) of this section and the contracting agency intends to accept a bid or proposal from a contractor that would be subject to the prohibition set forth in subsection (1) of this section, the contracting agency shall apply to an appropriate authority for an exception to the prohibition before awarding a public contract for the personal services or amending an existing public contract to include the personal services.

(b) For a state contracting agency, the appropriate authority is the Director of the Oregon Department of Administrative Services. For a local contracting agency, the appropriate authority is the local contracting agency's local contract review board. For the De-

partment of Transportation, with respect to a procurement described in ORS 279A.050 (3)(b), the appropriate authority is the Director of Transportation.

(c) In preparing an application under paragraph (a) of this subsection, a contracting agency shall consult with legal counsel to ensure compliance with the provisions of this section and this chapter. The requirements of this paragraph are in addition to any requirements for legal sufficiency approval under ORS 291.047.

(d) An application under paragraph (a) of this subsection must include findings and justifications, along with sufficient facts to support the findings and justifications, that enable the authority to make an independent judgment as to whether:

(A) The contracting agency requires the personal services described in subsection (1) of this section;

(B) Accepting a bid or proposal from a contractor that would be subject to the prohibition described in subsection (1) of this section is in the best interest of the contracting agency; and

(C) Approving an exception:

(i) Is unlikely to encourage favoritism in awarding public contracts or to substantially diminish competition for public contracts; and

(ii)(I) Is reasonably expected to result in substantial cost savings to the contracting agency or the public; or

(II) Otherwise substantially promotes the public interest in a manner that could not be practicably realized by complying with the prohibition described in subsection (1) of this section.

(e)(A) If the appropriate authority approves the contracting agency's application under paragraph (a) of this subsection, the appropriate authority shall prepare written findings and justifications for the approval. The contracting agency's findings, justifications and facts and the appropriate authority's findings, justifications and approval are public records that are subject to disclosure as provided in ORS 192.311 to 192.478.

(B) If the appropriate authority disapproves the contracting agency's application, the appropriate authority shall state the reasons for the disapproval in a written notice to the contracting agency and shall indicate whether the disapproval extends only to the contracting agency's acceptance of a bid or proposal from a contractor that would be subject to the prohibition described in subsection (1) of this section or whether the appropriate authority also disagrees with the contracting agency's stated need for the personal services.

(C) The appropriate authority's approval or disapproval is final.

(f) In approving an exception under this subsection, the appropriate authority may direct a contracting agency to consult with legal counsel to ensure compliance with applicable law in conducting a procurement for personal services of the type described in subsection (1) of this section.

SECTION 49. ORS 279C.335 is amended to read:

279C.335. (1) All public improvement contracts [*shall*] **must** be based upon competitive bids except:

(a) A public improvement contract with a qualified nonprofit agency that provides employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

(b) A public improvement contract that is exempt under subsection (2) of this section.

(c) A public improvement contract with a value of less than \$5,000.

(d) A public improvement contract with a contract price that does not exceed \$100,000 made under procedures for competitive quotes in ORS 279C.412 and 279C.414.

(e) A contract to repair, maintain, improve or protect property the Department of Veterans' Affairs obtains under ORS 407.135 and 407.145 (1).

(f) An energy savings performance contract that a contracting agency enters into in accordance with rules of procedure adopted under ORS 279A.065.

(g) A public improvement contract with an estimated contract price of \$250,000 or less that a contracting agency awards to an emerging small business certified under ORS 200.055 and funds with moneys from the Emerging Small Business Account established under ORS 200.180. A contracting agency that awards a public contract exempted from competitive bidding under this paragraph shall solicit competitive quotes as provided in ORS 279C.414 before making the award.

(2) Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

(a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

(A) How many persons are available to bid;

(B) The construction budget and the projected operating costs for the completed public improvement;

(C) Public benefits that may result from granting the exemption;

(D) Whether value engineering techniques may decrease the cost of the public improvement;

(E) The cost and availability of specialized expertise that is necessary for the public improvement;

(F) Any likely increases in public safety;

(G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;

(H) Whether granting the exemption will affect the sources of funding for the public improvement;

(I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;

(L) Whether the public improvement will be occupied or unoccupied during construction;

(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and

(N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

(c) As an alternative to the finding described in paragraph (b) of this subsection, if a contracting agency or state agency seeks an exemption that would allow the contracting agency or state agency to use an alternative contracting method that the contracting agency or state agency has not previously used, the contracting agency or state agency may make a finding that identifies the project as a pilot project for which the contracting agency or state agency intends to determine whether using the alternative contracting method actually results in substantial cost savings to the contracting agency, to the state agency or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. The contracting agency or state agency shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation required under ORS 279C.355.

(3) In making findings to support an exemption for a class of public improvement contracts, the contracting agency or state agency shall clearly identify the class using the class's defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency's overall construction program. The agency may not identify a class solely by funding source, such as a particular bond fund, or by the method of procurement, but shall identify the class using characteristics that reasonably relate to the exemption criteria set forth in subsection (2) of this section.

(4) In granting exemptions under subsection (2) of this section, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall:

(a) If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition.

(b) Require and approve or disapprove written findings by the contracting agency or state agency that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirement of subsection (1) of this section. The findings must show that the exemption of a contract or class of contracts complies with the requirements of subsection (2) of this section.

(c) Require a contracting agency or state agency that procures construction manager/general contractor services to conduct the procurement in accordance with model rules the Attorney General adopts under ORS 279A.065 (3).

(5)(a) A contracting agency or state agency [*shall*] **may** hold a public hearing before approving the findings required by subsection (2) of this section and before the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board grants an exemption from the competitive bidding requirement for a public improvement contract or a class of public improvement contracts.

(b) Notification of [*the public hearing*] **a proposed exemption under subsection (2) of this section** must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the [*hearing*] **date on which the contracting agency intends to take action to approve or disapprove the exemption.**

(c) The notice must state that **in response to a written request, the contracting agency or state agency will hold a public hearing** [*is*] for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement. [*At the time of the notice, copies of the draft findings must be made available to the public. At the option of the contracting agency or state agency, the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for further public comment.*]

(d) [*At the*] **If the contracting agency or state agency conducts a public hearing**, the contracting agency or state agency shall offer an opportunity for any interested party to appear and comment.

(e) If a contracting agency or state agency must act promptly because of circumstances beyond the agency's control that do not constitute an emergency, notification of the [*public hearing*] **proposed exemption** may be published simultaneously with the agency's solicitation of contractors for

the alternative public contracting method, as long as responses to the solicitation are due at least five days after the *[hearing and approval of the findings]* **agency intends to take action to approve or disapprove the proposed exemption.**

(6) The purpose of an exemption is to exempt one or more public improvement contracts from competitive bidding requirements. The representations in and the accuracy of the findings, including any general description of the resulting public improvement contract, are the bases for approving the findings and granting the exemption. The findings may describe anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics or specifics announced in the solicitation document.

(7) A public improvement contract awarded under the competitive bidding requirement of subsection (1) of this section may be amended only in accordance with rules adopted under ORS 279A.065.

(8) A public improvement contract that is excepted from the competitive bidding requirement under subsection (1)(a), (c), (d), (e), *[or]* (f) **or** (g) of this section is not subject to the exemption requirements of subsection (2) of this section.

SECTION 49a. If House Bill 3082 becomes law, section 49 of this 2021 Act (amending ORS 279C.335) is repealed and ORS 279C.335, as amended by section 1, chapter 127, Oregon Laws 2021 (Enrolled House Bill 3082), is amended to read:

279C.335. (1) A contracting agency may award a public improvement contract only in response to competitive bids, except for:

(a) A public improvement contract with a qualified nonprofit agency that provides employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

(b) A public improvement contract that is exempt under subsection (2) of this section.

(c) A public improvement contract with a value of less than \$10,000.

(d) A public improvement contract with a contract price that does not exceed \$100,000 made under procedures for competitive quotes in ORS 279C.412 and 279C.414.

(e) A contract to repair, maintain, improve or protect property the Department of Veterans' Affairs obtains under ORS 407.135 and 407.145 (1).

(f) An energy savings performance contract that a contracting agency enters into in accordance with rules of procedure adopted under ORS 279A.065.

(g) A public improvement contract with an estimated contract price of \$250,000 or less that a contracting agency awards to an emerging small business certified under ORS 200.055 and funds with moneys from the Emerging Small Business Account established under ORS 200.180. A contracting agency that awards a public contract exempted from competitive bidding under this paragraph shall solicit competitive quotes as provided in ORS 279C.414 before making the award.

(2) Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

(a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall consider the type, cost and amount of the contract and, to the extent

applicable to the particular public improvement contract or class of public improvement contracts, the following:

- (A) How many persons are available to bid;
- (B) The construction budget and the projected operating costs for the completed public improvement;
- (C) Public benefits that may result from granting the exemption;
- (D) Whether value engineering techniques may decrease the cost of the public improvement;
- (E) The cost and availability of specialized expertise that is necessary for the public improvement;
- (F) Any likely increases in public safety;
- (G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
- (H) Whether granting the exemption will affect the sources of funding for the public improvement;
- (I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
- (J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
- (K) Whether the public improvement involves new construction or renovates or remodels an existing structure;
- (L) Whether the public improvement will be occupied or unoccupied during construction;
- (M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
- (N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

(c) As an alternative to the finding described in paragraph (b) of this subsection, if a contracting agency or state agency seeks an exemption that would allow the contracting agency or state agency to use an alternative contracting method that the contracting agency or state agency has not previously used, the contracting agency or state agency may make a finding that identifies the project as a pilot project for which the contracting agency or state agency intends to determine whether using the alternative contracting method actually results in substantial cost savings to the contracting agency, to the state agency or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. The contracting agency or state agency shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation required under ORS 279C.355.

(3) In making findings to support an exemption for a class of public improvement contracts, the contracting agency or state agency shall clearly identify the class using the class's defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency's overall construction program. The agency may not identify a class solely by funding source, such as a particular bond fund, or by the method of procurement, but shall identify the class using characteristics that reasonably relate to the exemption criteria set forth in subsection (2) of this section.

(4) In granting exemptions under subsection (2) of this section, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall:

(a) If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition.

(b) Require and approve or disapprove written findings by the contracting agency or state agency that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirement of subsection (1) of this section. The findings must show that the exemption of a contract or class of contracts complies with the requirements of subsection (2) of this section.

(c) Require a contracting agency or state agency that procures construction manager/general contractor services to conduct the procurement in accordance with model rules the Attorney General adopts under ORS 279A.065 (3).

(5)(a) A contracting agency or state agency [*shall*] **may** hold a public hearing before approving the findings required by subsection (2) of this section and before the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board grants an exemption from the competitive bidding requirement for a public improvement contract or a class of public improvement contracts.

(b) Notification of [*the public hearing*] **a proposed exemption under subsection (2) of this section** must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the [*hearing*] **date on which the contracting agency intends to take action to approve or disapprove the exemption.**

(c) The notice must state that **in response to a written request, the contracting agency or state agency will hold a public hearing** [*is*] for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement. [*At the time of the notice, copies of the draft findings must be made available to the public. At the option of the contracting agency or state agency, the notice may describe the process by which the findings are finally adopted and may indicate the opportunity for further public comment.*]

(d) [*At the*] **If the contracting agency or state agency conducts a public hearing**, the contracting agency or state agency shall offer an opportunity for any interested party to appear and comment.

(e) If a contracting agency or state agency must act promptly because of circumstances beyond the agency's control that do not constitute an emergency, notification of the [*public hearing*] **proposed exemption** may be published simultaneously with the agency's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five days after the [*hearing and approval of the findings*] **agency intends to take action to approve or disapprove the proposed exemption.**

(6) The purpose of an exemption is to exempt one or more public improvement contracts from competitive bidding requirements. The representations in and the accuracy of the findings, including any general description of the resulting public improvement contract, are the bases for approving the findings and granting the exemption. The findings may describe anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics or specifics announced in the solicitation document.

(7) A public improvement contract awarded under the competitive bidding requirement of subsection (1) of this section may be amended only in accordance with rules adopted under ORS 279A.065.

(8) A public improvement contract that is excepted from the competitive bidding requirement under subsection (1)(a), (c), (d), (e), [*or*] (f) **or (g)** of this section is not subject to the exemption requirements of subsection (2) of this section.

SECTION 50. The amendments to ORS 279A.142, 279C.307 and 279C.335 by sections 46, 48 and 49 of this 2021 Act apply to contracts that a contracting agency or state agency advertises or otherwise solicits, or, if the contracting agency or state agency does not advertise or solicit the public contract, to public contracts into which the contracting agency or state agency enters or amends on or after the effective date of this 2021 Act.

NOTE: Sections 51 to 80 were deleted by amendment. Subsequent sections were not renumbered.

HIGHWAY SPEEDS

SECTION 81. ORS 810.180 is amended to read:

810.180. (1) As used in this section:

(a) "Designated speed" means the speed that is designated by a road authority as the maximum permissible speed for a highway and that may be different from the statutory speed for the highway.

(b) "Statutory speed" means the speed that is established as a speed limit under ORS 811.111, or is established as the speed the exceeding of which is prima facie evidence of violation of the basic speed rule under ORS 811.105.

(2)(a) A designated speed established under this section is a speed limit if the highway for which the speed is designated is subject to a statutory speed limit under ORS 811.111 that is in addition to the speed limit established under ORS 811.111 (1)(b).

(b) A speed greater than a designated speed established under this section is prima facie evidence of violation of the basic speed rule if the designated speed is established for a highway on which there is no speed limit other than the limit established under ORS 811.111 (1)(b).

(3) The Department of Transportation may establish by rule designated speeds on any specified section of interstate highway if the department determines that speed limits established under ORS 811.111 (1) are greater or less than is reasonable or safe under the conditions that exist with respect to that section of the interstate highway. Designated speeds established under this subsection are subject to all of the following:

(a) The department may not establish a designated speed under this subsection of more than:

(A) Sixty-five miles per hour for vehicles described in ORS 811.111 (1)(b); and

(B) Seventy miles per hour for all other vehicles.

(b) If the department establishes designated speeds under this subsection that are greater than 65 miles per hour, the designated speed for vehicles described in ORS 811.111 (1)(b) must be at least five miles per hour lower than the designated speed for all other vehicles on the specified section of interstate highway.

(c) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the interstate highway is greater or less than is reasonable or safe under conditions the department finds to exist.

(d) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the section of interstate highway where the designated speed is imposed.

(4)(a) The department may establish, pursuant to a process established by rule, a designated speed on a state highway outside of a city. The authority granted under this subsection includes, but is not limited to, the authority to establish different designated speeds for different kinds or classes of vehicles as the department determines reasonable and safe. A designated speed established under this subsection for any kind or class of vehicles may not exceed the speed limit for the highway for that kind or class of vehicles as established in ORS 811.111 or, if there is no speed limit for the highway other than the limit established in ORS 811.111 (1)(b), may not exceed 55 miles per hour.

(b) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the highway is greater or less than is reasonable or safe under conditions the department finds to exist.

(c) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the portion of highway where the designated speed is imposed.

(5) After a written request is received from a road authority for a highway other than a highway described in subsection (3) or (4) of this section, the department, pursuant to a process established

by rule, may establish a designated speed for the highway. The authority granted under this subsection includes, but is not limited to, the authority to establish different designated speeds for different kinds or classes of vehicles as the department determines reasonable and safe. The authority granted under this subsection is subject to all of the following:

(a) The written request from the road authority must state a recommended designated speed.

(b) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the highway is greater or less than is reasonable or safe under conditions the department finds to exist.

(c) The department may not make a final decision to establish a designated speed under this subsection without providing the affected road authorities with notice and opportunity for a hearing.

(d) A road authority may file a written objection to a designated speed that is proposed by the department under this subsection and that affects the road authority.

(e) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the portion of the highway where the designated speed is imposed. The expense of erecting any sign under this subsection shall be borne by the road authority having jurisdiction over the portion of the highway where the designated speed is imposed.

(f) The department, pursuant to a process established by rule, may delegate its authority under this subsection with respect to highways that are low volume or unpaved to a city or county with jurisdiction over the highway. The department shall delegate authority under this paragraph only if it determines that the city or county will exercise the authority according to criteria adopted by the department.

(g) The department, pursuant to a process established by rule, may delegate its authority under this subsection to Clackamas County, Multnomah County or a city with jurisdiction over the highway. The department shall delegate authority under this paragraph only if it determines that Clackamas County, Multnomah County or the city will exercise the authority according to criteria adopted by the department. When Clackamas County, Multnomah County or a city establishes a designated speed under this paragraph, the county or city shall provide written notice to the department. The designated speed established under this paragraph is effective 30 days after the department receives the notice.

(6) The department may override the speed limit established for ocean shores under ORS 811.111 (1)(c) and establish a designated speed of less than 25 miles per hour on any specified section of ocean shore if the department determines that the speed limit established under ORS 811.111 (1)(c) is greater than is reasonable or safe under the conditions that exist with respect to that part of the ocean shore. The authority granted under this subsection is subject to all of the following:

(a) The department may make the determination required under this subsection only on the basis of an investigation.

(b) A designated speed established under this subsection is effective when posted upon appropriate fixed or variable signs on the portion of ocean shore where the designated speed is imposed.

(7) A road authority may adopt a designated speed to regulate the speed of vehicles in parks under the jurisdiction of the road authority. A road authority regulating the speed of vehicles under this subsection shall post and maintain signs at all park entrances to give notice of any designated speed.

(8) A road authority may establish by ordinance or order a temporary designated speed for highways in its jurisdiction that is lower than the statutory speed. A temporary designated speed may be established under this subsection if, in the judgment of the road authority, the temporary designated speed is necessary to protect any portion of the highway from being unduly damaged, or to protect the safety of the public and workers when temporary conditions such as construction or maintenance activities constitute a danger. The following apply to the authority granted under this subsection:

(a) Statutory speeds may be overridden by a temporary designated speed only:

(A) For a specific period of time for all vehicles; or

(B) For a specified period of time for a specific kind or class of vehicle that is causing identified damage to highways.

(b) This subsection may not be used to establish a permanent designated speed.

(c) The authority granted by this subsection may be exercised only if the ordinance or order that imposes the temporary designated speed:

(A) Specifies the hazard, damage or other condition requiring the temporary designated speed; and

(B) Is effective only for a specified time that corresponds to the hazard, damage or other condition specified.

(d) A temporary designated speed imposed under this subsection must be imposed by a proper written ordinance or order. A sign giving notice of the temporary designated speed must be posted at each end of the portion of highway where the temporary designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The temporary designated speed shall be effective when signs giving notice of the temporary designated speed are posted.

(9) A road authority may establish an emergency speed on any highway under the jurisdiction of the road authority that is different from the existing speed on the highway. The authority granted under this subsection is subject to all of the following:

(a) A speed established under this subsection is effective when appropriate signs giving notice thereof are posted upon the highway or portion of highway where the emergency speed is imposed. All signs posted under this subsection must comply with ORS 810.200.

(b) The expense of posting any sign under this subsection shall be borne by the road authority having jurisdiction over the highway or portion of highway where the emergency speed is imposed.

(c) A speed established under this subsection may be effective for not more than 120 days.

(10) A road authority may establish by ordinance a designated speed for a highway under the jurisdiction of the road authority that is five miles per hour lower than the statutory speed. The following apply to the authority granted under this subsection:

(a) The highway is located in a residence district.

(b) The statutory speed may be overridden by a designated speed only if:

(A) The road authority determines that the highway has an average volume of fewer than 2,000 motor vehicles per day, more than 85 percent of which are traveling less than 30 miles per hour; and

(B) There is a traffic control device on the highway that indicates the presence of pedestrians or bicyclists.

(c) The road authority shall post a sign giving notice of the designated speed at each end of the portion of highway where the designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The designated speed shall be effective when signs giving notice of the designated speed are posted.

(11) A city may establish by ordinance a designated speed for a highway under the jurisdiction of the city that is five miles per hour lower than the statutory speed. The following apply to the authority granted under this subsection:

(a) The highway is located in a residence district.

(b) The highway is not an arterial highway.

(c) The city shall post a sign giving notice of the designated speed at each end of the portion of highway where the designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The designated speed shall be effective when signs giving notice of the designated speed are posted.

(12) Notwithstanding ORS 801.430, as used in subsection (11) of this section, "residence district" includes territory not comprising a business district that is contiguous to a highway and has access to dwellings provided by alleys.

SHORT-TERM BORROWING

SECTION 82. ORS 367.105 is amended to read:

367.105. (1) In addition to the authority for short-term borrowing granted in ORS 286A.025 (2)(d) and 286A.045, the Department of Transportation, acting through the State Treasurer, may borrow money by entering into a credit agreement, a line of credit or a revolving line of credit, or by issuing a note, a warrant, a short-term promissory note, commercial paper or another similar obligation, for the following purposes:

(a) Providing matching funds as set forth in ORS 366.564.

(b) Providing funds with which to pay when due the principal or interest of bonded indebtedness created for highway purposes, the payment of which is necessary to preserve the financial credit of the state.

(c) Meeting emergencies.

(d) Providing funds for use by the department during times when expenditures exceed revenues, whether or not the department anticipated that expenditures would exceed revenues.

(e) Providing funds for the payment of current expenses in anticipation of revenue, grants or other moneys intended for payment of the current expenses.

(f) Providing funds for interim financing of a capital asset or project to be undertaken by the department.

(g) Refunding an outstanding obligation.

(2) Short-term borrowing under this section may be in such denominations or for such sums as the department fixes and may draw interest at a negotiated rate.

(3) The total outstanding indebtedness created by the short-term borrowing under this section may not exceed [*\$100*] **\$600** million in outstanding principal amount.

(4) All short-term borrowing issued pursuant to this section shall mature within [*three*] **five** years from the date of issuance. **This subsection does not apply to refunding revenue bonds issued under subsection (5) of this section.**

(5) The State Treasurer may issue refunding revenue bonds to refund outstanding short-term borrowings issued under this section.

[(5) The department shall pay for and secure short-term borrowing under this section with funds from the State Highway Fund or other funds that are legally available to the department for the purposes for which the moneys were borrowed, including moneys received by the department from the United States government.]

(6) Using funds from the State Highway Fund or other funds that are legally available to the department or State Treasurer for the purposes for which the moneys were borrowed, including moneys received by the department or State Treasurer from the United States government:

(a) The department shall pay for and secure short-term borrowing under this section; and

(b) The department shall pay for any refunding revenue bonds issued under this section.

(7) ORS 286A.035 does not apply to borrowings under this section.

DRIVER SUSPENSION HEARINGS

SECTION 83. ORS 809.440 is amended to read:

809.440. (1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.409 to 809.421, 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 department imposes the suspension or revocation of driving privileges.

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

(c) The hearing shall be in the county where the person resides unless the person and the department agree otherwise.

(d) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(2) The following apply when administrative review is provided under any statute or rule of the department:

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

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

(A) A conviction on which the department's action is based was for an offense that did not involve a motor vehicle and the department's action is permitted only if the offense involves a motor vehicle.

(B) An out-of-state conviction on which the department's action is based was for an offense that is not comparable to an offense under Oregon law.

(C) The records relied on by the department 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 chapter 183 applicable to contested cases, and from the provisions of subsection [(4)] (5) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation may 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 department order affirming a suspension or revocation after an administrative review shall be available as for review of orders other than contested cases, and the department may not be subject to default for failure to appear in such proceedings. The department shall certify its record to the court within 20 days after service upon the department 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 ordered 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 department shall adopt any rules governing administrative review that are considered necessary or convenient by the department.

(3) At a hearing for failure to make a future responsibility filing or false certification of financial responsibility requirements under ORS 809.415, it is a defense to the department's action if the petitioner can establish that:

(a) An error was committed by the department;

(b) The person in fact was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150;

(c) An error was committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150;

(d) The person was not in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150, and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date the department sent the notice of verification and that the person currently is in compliance with financial responsibility requirements; or

(e) 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.

[(3)] (4) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the department 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)] (5) When permitted under ORS 809.417, 809.419, 809.421 or 809.510 to 809.545, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the department imposes the suspension or revocation of driving privileges. All of the following apply to this subsection:

(a) The department 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 chapter 183.

(c) Unless there is an agreement between the person and the department 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 department by rule.

[(5)] (6) The department has complied with a requirement for a hearing or administrative review if the department 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)] (7) For any hearing described under this section, and for administrative review described under this section, no further notice need be given by the department if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the department, of the rights to a hearing or review and of the suspension or revocation.

SECTION 84. ORS 809.515, as amended by section 9, chapter 10, Oregon Laws 2020 (first special session), is amended to read:

809.515. (1)(a) The Department of Transportation shall suspend the commercial driving privileges of a person if the department receives a notice from another jurisdiction that the person failed to appear in a prosecution on a citation for a traffic offense or for a violation in the other jurisdiction that, if committed in this state, would be grounds for suspension under ORS 809.220, and the person held commercial driving privileges or was operating a commercial motor vehicle at the time of the offense. The period of a suspension under this subsection is the shorter of:

(A) Ten years; or

(B) Until the department receives notice from the other jurisdiction that the person appeared.

(b) The department shall suspend a person's commercial driving privileges under this subsection without regard to whether the other jurisdiction suspends any driving privileges of the person by reason of the person's failure to appear.

(c) This subsection does not apply to failure to appear in a proceeding relating to a parking, pedestrian, vehicle defect or bicycling offense.

(2) The department shall suspend the commercial driving privileges of a person if the department receives a notice from the Federal Motor Carrier Safety Administration that the person has been disqualified from operating a commercial motor vehicle and that the disqualification is due to a determination that the driving of that person constitutes an imminent hazard. The department shall immediately suspend commercial driving privileges under this subsection without hearing, but the person may request a post-imposition hearing under ORS 809.440 [(4)] (5), without regard to any hearings conducted by the Federal Motor Carrier Safety Administration. The period of a suspension under this section is the period of suspension prescribed by the Federal Motor Carrier Safety Administration, or one year, whichever is shorter.

REPEAL OF VEHICLE REGISTRATION SUSPENSIONS

SECTION 85. ORS 809.010, 809.020, 809.030, 809.040, 809.050 and 809.080 are repealed.

SECTION 85a. Notwithstanding sections 34 (amending ORS 809.020) and 35 (amending ORS 809.050), chapter __, Oregon Laws 2021 (Enrolled House Bill 3050), if House Bill 3050 becomes law, ORS 809.020 and 809.050 are repealed by section 85 of this 2021 Act.

SECTION 86. ORS 806.040 is amended to read:

806.040. Financial responsibility requirements are designed to provide for minimum payment of judgments of the type described in this section. For the purposes of ORS 806.130, 806.140, [809.020,] 809.130 and 809.470, judgments of the type described in this section must:

(1) Have become final by expiration, without appeal, of the time within which an appeal might have been perfected or by final affirmation on appeal;

(2) Be rendered by a court of competent jurisdiction of any state or of the United States;

(3) Be upon a cause of action for damages of the type described under subsection (4) of this section or upon a cause of action on an agreement of settlement for such damages; and

(4) Be for one or more of the following kinds of damage arising out of a motor vehicle accident on public or private property:

(a) Damages, including damages for care and loss of services, because of bodily injury to or death of any person.

(b) Damages because of injury to or destruction of property, including the loss of use thereof.

SECTION 87. ORS 806.070 is amended to read:

806.070. (1) This section establishes a schedule of payments for the following purposes:

(a) An insurance policy described under ORS 806.080 must provide for payment of at least amounts necessary to cover the minimum required payments under this section to qualify for use for financial responsibility under ORS 806.060.

(b) A person who is self-insured under ORS 806.130 must agree to pay according to the payment schedule established by this section.

(c) The payment schedule is the minimum required payment of a judgment for purposes of ORS [809.020,] 809.130 and 809.415.

(2) The schedule of payments is as follows:

(a) \$25,000 because of bodily injury to or death of one person in any one accident;

(b) Subject to that limit for one person, \$50,000 because of bodily injury to or death of two or more persons in any one accident; and

(c) \$20,000 because of injury to or destruction of the property of others in any one accident.

SECTION 88. ORS 806.200 is amended to read:

806.200. (1) A person commits the offense of failure to make a future responsibility filing after an accident if:

(a) The person is the owner or driver of a motor vehicle involved in an accident;

(b) At the time of the accident the vehicle was operated in violation of ORS 806.010;

(c) The person does not make a future responsibility filing within 30 days after the accident; and

(d) The person is not exempt under ORS 806.210 from making a future responsibility filing.

(2) The employer of a driver is subject to the requirements and penalties under this section if the driver is an employee exempted from this section under ORS 806.210. *[If an employer is subject to this section, the registration of the employer's vehicles may be suspended as provided under ORS 809.050.]*

(3) In addition to any other penalties under this section, violation of this section subjects the violator to suspension of driving privileges as provided under ORS 809.415.

(4) The offense described in this section, failure to make a future responsibility filing after an accident, is a Class B traffic violation.

SECTION 89. ORS 806.240 is amended to read:

806.240. Future responsibility filings required by ORS 806.200, 806.220 or 806.230 or by any other law of this state are subject to all of the following:

(1) Except as provided in subsection (3) of this section, the person required to make the filing must file with the Department of Transportation, or have filed with the department for the benefit of the person, proof of compliance that meets the requirements of this section and must maintain the proof of compliance as required under ORS 806.245. The filing is made on the date it is received by the department if it is received during regular business hours.

(2) The proof of compliance filed under subsection (1) of this section must be:

- (a) A certificate or certificates of insurance that meet the requirements under ORS 806.270; or
- (b) A valid certificate of self-insurance issued by the department under ORS 806.130.
- (3) The owner of a motor vehicle may make a future responsibility filing under this section on behalf of the owner's employee or a member of the owner's immediate family or household in lieu of the filing being made by the person. Filing under this subsection permits the person on whose behalf the filing is made to operate only a motor vehicle covered by the proof of compliance given in the filing. The department shall endorse restrictions, as appropriate, on any license or driver permit the person holds as the department determines necessary to limit the person's ability to operate vehicles consistent with this subsection.

(4) Whenever proof of compliance filed under this section no longer meets the requirements of this section, the department shall require the furnishing of other proof of compliance for the future responsibility filing. If other proof of compliance is not furnished, the department shall suspend the driving privileges of the person as provided under ORS 809.415 *[or, if applicable, any registration as provided under ORS 809.050]*.

SECTION 90. ORS 809.120 is amended to read:

809.120. (1) In addition to any other punishment imposed under ORS 818.040, a convicting court has authority to order 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 Department of Transportation. The authority of a court to order 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 order 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 order the suspension for not less than 30 days nor more than 90 days.

(2) Upon ordering a suspension under this section, a court shall secure the license, driver permit or registration plates ordered suspended and shall immediately forward them to the department with the order of suspension as provided under ORS 809.275.

(3) Upon receipt of an order under this section, the department shall proceed as provided under ORS *[809.020 or]* 809.280.

SECTION 91. ORS 809.130 is amended to read:

809.130. (1) If a court notifies the Department of Transportation under this section that a judgment remains unsettled as described by ORS 809.470, the department must initiate action to determine whether to suspend or revoke driving privileges under ORS 809.415 *[or vehicle registration of the employer under ORS 809.020]*. A court shall immediately give the department 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 department a certificate stating the judgment has not been settled as described in ORS 809.470.

(2) A court that has given the department notice of an unsettled judgment under this section shall immediately forward to the department 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 department a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the department under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge.

SECTION 92. ORS 809.700 is amended to read:

809.700. A court may order a motor vehicle impounded or immobilized upon conviction for the traffic offenses described in this section. The authority to impound or immobilize a vehicle under this section is subject to all of the following:

(1) The court may order a vehicle impounded or immobilized 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 or immobilized under this section for not more than one year 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) A vehicle may be immobilized under this section if the vehicle is registered in this state and is a vehicle that may be impounded under subsection (3) of this section.

(5)(a) If a vehicle is ordered to be immobilized under this section and if the convicted person resides in the jurisdiction of the law enforcement agency that arrested the person for the offense described in subsection (1) of this section, the arresting law enforcement agency shall install a vehicle immobilization device on the vehicle. If the convicted person does not reside in the jurisdiction of the law enforcement agency that arrested the person, the sheriff of the county in which the person resides shall install the device.

(b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the owner of the vehicle or at the location where the owner regularly parks the vehicle.

(c) A vehicle ordered immobilized under this section may be immobilized only in a location at which the vehicle may be legally stored for the period of the immobilization order. If no location is available at which the vehicle may be legally stored, the vehicle may be impounded for the period of the immobilization order.

(d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered under this section shall be subject to contempt of court proceedings under ORS 33.015 to 33.155.

(6)(a) If a vehicle is impounded under this section, the person convicted shall be liable for the expenses incurred in the towing and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.

(b) If a vehicle is immobilized under this section, the person convicted shall be liable for the expenses incurred in installation and removal of the vehicle immobilization device and for rental of the device during the period the device is installed on the vehicle, whether or not the vehicle is released to the person convicted.

(7) A vehicle shall be released or returned to the person convicted or the owner only upon payment of the expenses incurred in the immobilization or towing and storage of the vehicle under this section.

(8) If a vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may be disposed of in accordance with procedures under ORS 819.110 to 819.215.

(9) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or immobilized under this section only if the court is satisfied by a preponderance of the 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.

(10) The authority to impound or immobilize a 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 or immobilized under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

(a) **A** request in writing is made to the court; **and**

(b) *[If the vehicle has been impounded or immobilized,]* The security interest holder pays the expenses in towing and storage or in immobilization 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].

(11) A security interest holder's obligation to pay and right to recover towing and storage or immobilization expenses under subsection (10) of this section are limited to the recovery of those towing and storage or immobilization expenses incurred during the initial 20-day period when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into custody or immobilizing the vehicle under this section has transmitted by certified mail a written notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is in private storage, the lien claimant shall transmit the written notice.

OReGO

SECTION 93. ORS 319.890 is amended to read:

319.890. (1) A person wishing to pay the per-mile road usage charge imposed under ORS 319.885 must apply to the Department of Transportation on a form prescribed by the department.

(2) The department shall approve a valid and complete application submitted under this section if:

(a) The applicant **has applied for registration or** is the registered owner or lessee of a motor vehicle;

(b) The motor vehicle is equipped with a method selected pursuant to ORS 319.900 for collecting and reporting the metered use by the motor vehicle of the highways in Oregon;

(c) The motor vehicle is classified as a passenger vehicle by the department; and

(d) The vehicle has a rating of at least 20 miles per gallon, such rating to be established by the department.

(3) An electric vehicle or a vehicle with a rating of 40 miles per gallon or greater for which an application *[is]* **has been submitted or** approved under this section is not subject to the additional amount of registration fees imposed under ORS 803.422.

(4) Approval of an application under this section subjects the applicant to the requirements of ORS 319.920 until the person ends the person's voluntary participation in the road usage charge program in the manner required under subsection (5) of this section.

(5) A person may end the person's voluntary participation in the road usage charge program at any time by notifying the department, returning any emblem issued under ORS 319.945 to the department and paying any outstanding amount of road usage charge for metered use by the person's subject vehicle.

(6)(a) This subsection applies to a person whose subject vehicle is described in subsection (3) of this section~~].~~ **and:**

[(b)] **(A)** *[If the person]* **Who** ends *[the person's]* voluntary participation in the per-mile road usage charge program with respect to the subject vehicle~~],;~~

(B) Whose application is not approved under this section; or

(C) Whose subject vehicle has been removed from the per-mile road usage charge program.

(b) In addition to any amount due under subsection (5) of this section, the **department may collect an** additional amount *[of]* **equal to the** registration fees that would otherwise have been due **with respect to the subject vehicle** for the current registration period under ORS 803.422 *[becomes due and]* **or a portion of the fees.**

(c) **The department shall establish by rule the circumstances in which a person described in paragraph (a)(C) of this subsection is required to pay an additional amount under paragraph (b) of this subsection.**

(d) **The department may deny registration for the subject vehicle until the additional amount [of registration fees is] imposed under paragraph (b) of this subsection has been paid.**

(7) **The Department of Transportation shall consult with vehicle dealers that sell passenger vehicles to determine the most effective methods, at the point of sale, to encourage participation in the per-mile road usage charge program.**

TRACTION TIRE OR CHAIN USE

SECTION 94. **Section 95 of this 2021 Act is added to and made a part of the Oregon Vehicle Code.**

SECTION 95. (1) **A person commits the offense of failure to carry vehicle traction tires or chains if the person drives or moves or owns and causes or knowingly permits to be driven or moved any motor vehicle or trailer on any highway if the highway is posted showing conditions that require the person to carry vehicle traction tires or chains within the vehicle and the vehicle does not contain vehicle traction tires or chains.**

(2) **Traction tires or chains that are referred to in this section are those established by rule under the authority granted under ORS 815.045.**

(3) **This section does not apply to vehicles exempted from this section under ORS 815.145.**

(4) **This section applies only to sections of highway on which a road authority requires a person to carry traction tires or chains within the vehicle and on which signs requiring the carrying of traction tires or chains have been posted as provided in ORS 815.045.**

(5) **A court may not find a person to be in violation of the offense described under this section if the court determines that the conditions of the highway at the time the person was cited did not require posting under rules adopted under ORS 815.045. The defense under this subsection may be affirmatively asserted by any person cited for violation of the offense described in this section.**

(6) **The offense described in this section, failure to carry vehicle traction tires or chains, is a Class C traffic violation.**

SECTION 96. **ORS 810.530 is amended to read:**

810.530. (1) **A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed may arrest or issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer. This subsection applies to the following offenses:**

- (a) **Violation of maximum weight limits under ORS 818.020.**
- (b) **Violation of posted weight limits under ORS 818.040.**
- (c) **Violation of administratively imposed weight or size limits under ORS 818.060.**
- (d) **Violation of maximum size limits under ORS 818.090.**
- (e) **Exceeding maximum number of vehicles in combination under ORS 818.110.**
- (f) **Violation of posted limits on use of road under ORS 818.130.**
- (g) **Violation of towing safety requirements under ORS 818.160.**
- (h) **Operating with sifting or leaking load under ORS 818.300.**
- (i) **Dragging objects on highway under ORS 818.320.**
- (j) **Unlawful use of devices without wheels under ORS 815.155.**
- (k) **Unlawful use of metal objects on tires under ORS 815.160.**
- (L) **Operation without pneumatic tires under ORS 815.170.**
- (m) **Operation in violation of vehicle variance permit under ORS 818.340.**
- (n) **Failure to carry and display permit under ORS 818.350.**
- (o) **Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.**
- (p) **Violation of any provision of ORS chapter 825.**

- (q) Operation without proper fenders or mudguards under ORS 815.185.
- (r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is operating a commercial motor vehicle and the person does not have commercial driving privileges.
- (s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is operating a commercial motor vehicle while the person's commercial driving privileges are suspended or revoked.
- (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is operating a motor vehicle subject to ORS chapter 825 or 826.
- (u) Failure to carry vehicle traction tires or chains in violation of section 95 of this 2021 Act if the person is operating a motor vehicle subject to ORS chapter 825 or 826.**

[(u)] (v) Illegally altering or displaying registration plate in violation of ORS 803.550.

(2) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed by a person operating a commercial motor vehicle may issue a citation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that an offense described in this subsection has been committed by a person operating a commercial motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation issued under this subsection to the operator of a commercial motor vehicle shall be considered to have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not the owner. This subsection applies to the following offenses, all of which are Class A traffic violations under ORS 825.990 (1):

- (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.
 - (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service authorized by certificate.
 - (c) Refusing or failing to file the annual report as required by ORS 825.320.
 - (d) Refusing or failing to maintain records required by the department or to produce such records for examination as required by the department.
 - (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under investigation.
 - (f) Filing with the department an application that is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.
 - (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS chapter 825 or 826.
 - (h) Refusing or failing to file a deposit or bond as required under ORS 825.506.
 - (i) Failing to comply with the applicable requirements for attendance at a motor carrier education program as required by ORS 825.402.
- (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person operating a commercial motor vehicle has committed the offense of failure to pay the appropriate registration fee under ORS 803.315 may issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.
- (4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or arrest under this section is subject to ORS chapter 153.
- (5)(a) A person is a weighmaster for purposes of this section if the person is a county weighmaster or a police officer.
- (b) A person is a motor carrier enforcement officer under this section if the person is duly authorized as a motor carrier enforcement officer by the Department of Transportation.
- (6) A weighmaster or motor carrier enforcement officer may accept security in the same manner as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in addition to other security permitted under this section, the sum fixed as the presumptive fine for the offense.

(7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a citation for any offense described in subsection (1) or (3) of this section except those described in subsection (1)(p) of this section.

(8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this subsection is subject to penalty under ORS 818.400.

SECTION 97. ORS 815.045 is amended to read:

815.045. (1) The Oregon Transportation Commission shall adopt rules necessary to carry out ORS 815.140 **and section 95 of this 2021 Act**. The rules adopted by the commission:

(a) Shall establish the various types of conditions under which vehicle traction tires or chains must be used **or carried**.

(b) Shall define types of vehicle traction tires or chains that may be used **or carried** under various road conditions. The commission rules under this paragraph shall comply with the following:

(A) Traction tire shall be defined to include any tire that meets traction standards established by the Department of Transportation.

(B) Retractable studded tires or tires with studs that are permitted under ORS 815.165 shall be allowed as traction tires under the rules.

(C) The department may require that traction tires without studs bear identifying marks, defined by the department, that indicate that the tire was manufactured specifically for adverse weather conditions.

(D) Chains shall be defined to include link chains, cable chains or any other device that attaches to the wheel, vehicle or outside of the tire and that augments the traction of a vehicle.

(E) Retractable studded tires shall be defined to include tires with embedded studs that project beyond the tread surface only when a vehicle operator extends the studs to augment the traction of the vehicle.

(c) Shall establish signs to be posted under conditions that require vehicle traction tires or chains **to be used or carried**.

(d) May establish types or classes of vehicles that are exempt from requirements to use **or carry** vehicle traction tires or chains under certain conditions if the commission determines that the operation of the class or type of vehicle would be safe under those conditions.

(2) A road authority shall:

(a) Determine when conditions on a segment of highway require [*the use of*] **a person to use or carry** vehicle traction tires or chains as defined by the commission;

(b) Determine which segments of a highway shall be posted as described under this section to require **a person to use or carry** vehicle traction tires or chains; and

(c) Provide for the placement and removal of signs requiring [*the use of*] **a person to use or carry** vehicle traction tires or chains.

SECTION 98. ORS 815.145 is amended to read:

815.145. (1) This section establishes exemptions from ORS 815.140 **and section 95 of this 2021 Act**.

(2) The following are completely or partially exempt as described:

[(1)] (a) Police vehicles under any conditions.

[(2)] (b) Fire vehicles when responding to a fire.

[(3)] (c) An ambulance when responding to an emergency.

[(4)] (3) A passenger vehicle or truck is not required to use chains if the vehicle or truck:

(a) Has an unloaded weight of 6,500 pounds or less;

(b) Is equipped and operated to provide power to both front and rear wheels;

(c) Is carrying chains as defined in ORS 815.045;

(d) Is equipped with tires, on all wheels, that are vehicle traction tires as defined in ORS 815.045;

(e) Is not towing another vehicle other than as may be necessary to remove disabled vehicles from the roadway; and

(f) Is not being operated in a manner or under conditions where the vehicle loses traction while stopping, cornering or moving.

[(5) Vehicles exempt by rule under ORS 815.045.]

SECTION 99. Section 95 of this 2021 Act and the amendments to ORS 810.530, 815.045 and 815.145 by sections 96 to 98 of this 2021 Act apply to offenses occurring on or after the effective date of this 2021 Act.

INTEREST CHARGED ON REPORTED WEIGHT-MILE TAX

SECTION 100. ORS 825.490 is amended to read:

825.490. (1) On or before the last day of each month, except for the time of payment provided in ORS 825.480 and 825.492, all persons shall report and pay to the Department of Transportation the amount of taxes and fees due from them for the preceding calendar month. However, taxes and fees incurred after the 15th day of any month may be reported and paid to the department on or before the last day of the second calendar month following the month in which the taxes or fees were incurred. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(2) The department may permit a person to report and pay motor carrier taxes and fees on a periodic basis other than the calendar-month basis prescribed in subsection (1) of this section, provided that the number of reporting periods in any 12-month period is not less than 12. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

[(3) Whenever practicable, and in no event later than three years after any report of taxes or fees is filed, the department shall audit the report if the department deems such audit practicable. If the department is not satisfied with the report filed or amount of taxes or fees, including fees for temporary passes required under ORS 825.470, paid to the state by any person, the department may, not later than three years after the report was filed or the taxes or fees were paid, make a proposed assessment of additional taxes or fees due from such person based upon any information available to the department. There shall be added to each such assessment, as a late payment charge, a sum equal to 10 percent of the amount of additional taxes or fees due.]

[(4) Every such additional assessment shall bear interest at the rate of one percent per month, or fraction thereof, from the last day of the month following the close of the month for which the additional assessment is imposed until paid.]

(3) Whenever practicable, and in no event later than three years after any report of taxes or fees is filed, the department shall audit the report. If the department is not satisfied with the report filed or the amount received, including fees for temporary passes required under ORS 825.470, the department may calculate the remaining amount due based on any information available to the department. The department shall add a late payment charge equal to 10 percent of the remaining amount due.

(4) The department may require a person who fails to pay any tax or fee due to pay interest. Interest shall be computed at the rate of one percent per month, or fraction thereof, beginning on the last day of the month following the close of the month for which the remaining amount due was incurred, until paid.

(5) If the *[additional assessment imposed]* **remaining amount due** exceeds by at least five percent but not more than 15 percent the amount of taxes or fees reported or paid, a penalty of five percent of the **remaining amount due** *[of the additional assessment]* shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(6) If the [additional assessment imposed] **remaining amount due** exceeds by more than 15 percent the amount of taxes or fees reported or paid, a penalty of 20 percent of the **remaining amount due** [of the additional assessment] shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(7) The department shall give to the person concerned written notice of [such additional assessment] **any amounts due**.

(8) Except as provided in ORS 825.484 (3), the department shall refund to any person the amount of any overpayment caused by any incorrect report.

(9) Whenever the department has made an assessment pursuant to this section that has become final the department may not reopen or reassess such taxes, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by the taxpayer pursuant to this chapter or the rules of the department.

SECTION 101. ORS 825.496 is amended to read:

825.496. (1) Any person against whom an assessment is made under ORS 825.490 or 825.494, may petition the Department of Transportation for a reassessment within 30 days after service upon the person of notice. If a petition is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is filed within the 30-day period the department shall reconsider the assessment and, if the person has requested in the petition, shall grant such person a hearing and give the person 10 days' notice of the time and place of the hearing. The department has power to continue the hearing from time to time as may be necessary. The decision of the department upon a petition for reassessment shall become final 30 days after service of notice upon the person concerned.

(2) The department may waive or reduce the interest and penalties provided in ORS 825.490 [(1) to (6)] or 825.494 (2) or (3) on those terms as the department considers proper if request for waiver or reduction is made within 30 days after service of notice of assessment upon the person concerned, or as part of the pleas made in the department's reconsideration of the assessment.

(3) Every assessment made by the department under ORS 825.490 to 825.496 becomes due and payable at the time it becomes final and if not paid to the department when due and payable there shall be added to the assessment a penalty of 10 percent of the amount of the tax.

(4) If any person who has requested a hearing pursuant to this section fails to appear at the scheduled hearing and failed to withdraw the petition for reassessment at least five days before the date of the hearing, the department may require such person to pay a charge of \$150 in addition to any other fees, taxes and charges which may be imposed under this chapter.

COMMERCIAL DRIVING PRIVILEGES

SECTION 102. Section 103 of this 2021 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 103. (1) The Department of Transportation shall establish requirements for entry-level commercial motor vehicle driver training. Entry-level commercial motor vehicle drivers include, but are not limited to:

(a) Individuals obtaining a Class A or Class B commercial driver license for the first time;

(b) Individuals upgrading an existing Class B commercial driver license to a Class A commercial driver license; and

(c) Individuals obtaining a school bus, a passenger or a hazardous materials endorsement for the first time.

(2) The department may cancel or suspend an individual's commercial driving privileges if the person has not completed the training required by rules adopted under this section. A person is entitled to administrative review under ORS 809.440 when the department does

not issue a commercial driver license or cancels or suspends commercial driving privileges under this section.

(3) The department shall adopt rules to carry out the provisions of this section.

SECTION 104. ORS 807.173, as amended by section 19, chapter 701, Oregon Laws 2019, is amended to read:

807.173. (1) Notwithstanding ORS 807.170, the Department of Transportation may not issue or renew a commercial driver license with a hazardous materials endorsement and may cancel a commercial driver license with a hazardous materials endorsement if a person:

(a) Does not complete and pass a security threat assessment from the federal Transportation Security Administration, including receipt by the department of a notice from the federal Transportation Security Administration showing that the person does not pose a security threat. The department shall establish by rule the process and frequency for obtaining a security threat assessment.

(b) Is assessed as a security threat by the federal Transportation Security Administration. The assessment must be received by the department in the form of a notice from the federal Transportation Security Administration.

[(c) Is not a U.S. citizen or lawful permanent resident as defined by the department by rule.]

(2) A person is entitled to administrative review under ORS 809.440 when the department does not issue or renew a commercial driver license with a hazardous materials endorsement under this section or cancels a commercial driver license with a hazardous materials endorsement under this section.

(3) To the extent possible, rules promulgated by the department under this section should be uniform with any applicable federal regulations related to the holding of a commercial driver license with a hazardous materials endorsement.

SECTION 105. ORS 809.310 is amended to read:

809.310. (1) The Department of Transportation may cancel any driving privileges upon determining that the person is not entitled to the driving privileges under the vehicle code. The department may reissue driving privileges canceled under this subsection when the applicant has satisfied all requirements for the driving privileges sought.

(2) The department may cancel any driver license or permit that contains any error or defect or that is found to have been issued on the basis of false information given to the department. Cancellation under this subsection is in addition to any suspension of driving privileges authorized for the same conduct.

(3) The department may suspend any driving privileges or right to apply for privileges or any identification card or right to apply for a card upon determining that the person issued or applying for the driving privileges or identification card has committed any of the following acts:

(a) Failed to give the required or correct information in the application for the driving privileges or for an identification card, in violation of ORS 807.430 or 807.530.

(b) Committed false swearing in making application for the driving privileges in violation of ORS 807.520.

(c) Used an invalid license or identification card in violation of ORS 807.430 or 807.580.

(d) Permitted misuse of license, permit or identification card in violation of ORS 807.430 or 807.590.

(e) Used the license, permit or identification card of another in violation of ORS 807.430 or 807.600.

(f) Produced identification cards, licenses, permits, forms or camera cards in violation of ORS 807.500.

(4) The department may determine by rule circumstances in which the department may cancel the commercial driving privileges, or the right to apply for commercial driving privileges, of an individual if the individual's commercial driving privileges are suspended, cancelled or revoked for any reason in another jurisdiction.

[4] (5) Upon suspension or cancellation of driving privileges under this section, a person whose privileges are suspended or canceled shall surrender to the department 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] (6) To obtain driving privileges after the period of suspension or cancellation under this section, a person must reapply for driving privileges in the manner established by law.

SECTION 106. ORS 809.510 is amended to read:

809.510. (1) Except as otherwise provided by ORS 809.510 to 809.545, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of one year when the department receives:

(a) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a driver.

(b) A record of conviction of a crime punishable as a felony involving the operation of a motor vehicle.

(c) A record of conviction for driving a commercial motor vehicle while, as a result of prior violations committed while operating a commercial motor vehicle, the commercial driving privileges of the driver were suspended.

(d) A record of conviction of assault in the first degree, or any degree of criminally negligent homicide, manslaughter or murder, if the conviction results from the operation of a commercial motor vehicle.

(e) A record of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked.

(f) A record of conviction for driving while under the influence of intoxicants under ORS 813.010.

(g) A record of diversion under ORS 813.230.

(2) The department shall suspend the commercial driving privileges of a person for a period of three years if the department receives a record of a conviction under subsection (1) of this section and the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.

(3) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a commercial motor vehicle and submitted to a breath or blood test and the *[person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol]* **level of alcohol in the person's blood was 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood.** The department shall suspend the commercial driving privileges of the person for a period of three years if the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.

(4) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a motor vehicle and submitted to a breath or blood test and the level of alcohol in the person's blood was 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood.

[4] (5) The department shall suspend the commercial driving privileges of a person for a period of three years if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a motor vehicle and refused to submit to a test under ORS 813.100. The department shall suspend the commercial driving privileges of the person for a period of five years if the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.

[5] (6) The department shall suspend the commercial driving privileges of a person if the department receives a notice of a conviction in another jurisdiction of an offense that, if committed in this state, would be grounds for the suspension of the person's commercial driving privileges. The period of suspension under this subsection shall be the same as would be imposed on the person if

the conviction were for an offense committed in this state. For the purposes of this subsection, "conviction" means an unvacated adjudication of guilt, a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or in an authorized administrative tribunal, **entry into a diversion program**, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost or the violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

[(6)] (7) The department shall suspend the commercial driving privileges of a person in this state if the department receives a notice from another jurisdiction that the person has had commercial driving privileges suspended or revoked in another jurisdiction for reasons that would be grounds for suspension of the person's commercial driving privileges in this state. The period of suspension under this subsection is the same as would be imposed on the person if the violation were committed in this state.

[(7)] (8) If the department receives a record, report or notice under this section for a person who does not hold commercial driving privileges in this state, the department shall suspend the person's right to apply for commercial driving privileges as provided in ORS 809.540 (1).

[(8)] (9) A suspension imposed under this section is consecutive to any other suspension imposed under ORS 809.525, 809.530 or 809.535 if the suspensions do not arise out of the same incident.

SECTION 107. ORS 809.520 is amended to read:

809.520. (1) Notwithstanding ORS 809.510, the Department of Transportation shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime punishable as a felony in which a motor vehicle was used and that involved the manufacturing, distributing or dispensing of a controlled substance, as defined in ORS 475.005. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

(2) Notwithstanding ORS 809.510, the department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime in which a commercial motor vehicle was used and that involved an act or practice of severe forms of trafficking in persons as defined by the department by rule. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

[(2)] (3) Notwithstanding ORS 809.510, the department shall suspend a person's commercial driving privileges for the lifetime of the person if the department receives a second or subsequent record, report or notice described in ORS 809.510 that does not arise out of the same incident and that would be grounds for suspension of the person's commercial driving privileges under ORS 809.510.

[(3)] (4) Except as provided in subsections (1), (2) and [(4)] (5) of this section, a person whose commercial driving privileges were suspended under subsection [(2)] (3) of this section may apply to the department for reinstatement of the person's commercial driving privileges. An application for reinstatement may not be made under this subsection earlier than 10 years after the date that the person's commercial driving privileges were suspended under subsection [(2)] (3) of this section. The department may reinstate the person's commercial driving privileges if:

- (a) The person meets all other requirements for the granting of commercial driving privileges;
- (b) The department, in its sole discretion, finds good cause exists for reinstatement; and
- (c) The department finds that the person has successfully completed rehabilitation as approved by the department.

[(4)] (5) The department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record, report or notice described in subsection [(2)] (3) of this section that relates to conduct that occurred after the person's commercial driving privileges were reinstated under subsection [(3)] (4) of this section. The department may not reinstate the commercial driving privileges for the lifetime of a person whose commercial driving privileges are suspended under this subsection.

SECTION 108. ORS 809.520, as amended by section 107 of this 2021 Act, is amended to read:

809.520. (1) Notwithstanding ORS 809.510, the Department of Transportation shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime punishable as a felony in which a motor vehicle was used and that involved the manufacturing, distributing or dispensing of a controlled substance, as defined in ORS 475.005. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

(2) Notwithstanding ORS 809.510, the department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime in which a commercial motor vehicle was used and that involved an act or practice of severe forms of trafficking in persons as defined by the department by rule. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

(3)(a) Notwithstanding ORS 809.510, the department shall suspend a person's commercial driving privileges for the lifetime of the person if the department receives a second or subsequent record, report or notice described in ORS 809.510 that does not arise out of the same incident and that would be grounds for suspension of the person's commercial driving privileges under ORS 809.510.

(b) **The department may adopt rules providing for the reinstatement of commercial driving privileges suspended under this subsection. The department may not reinstate commercial driving privilege suspensions under this subsection earlier than 10 years after the date that the person's commercial driving privileges are suspended under paragraph (a) of this subsection.**

(c) **The department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record, report or notice described in paragraph (a) of this subsection that relates to conduct that occurred after the person's commercial driving privileges were reinstated under paragraph (b) of this subsection. The department may not reinstate the commercial driving privileges of a person whose commercial driving privileges are suspended under this paragraph.**

(4) **A suspension imposed under this section is consecutive to any other suspension imposed under ORS 809.510, 809.525, 809.530 or 809.535, if the suspensions do not arise out of the same incident.**

[(4) Except as provided in subsections (1), (2) and (5) of this section, a person whose commercial driving privileges were suspended under subsection (3) of this section may apply to the department for reinstatement of the person's commercial driving privileges. An application for reinstatement may not be made under this subsection earlier than 10 years after the date that the person's commercial driving privileges were suspended under subsection (3) of this section. The department may reinstate the person's commercial driving privileges if:]

[(a) The person meets all other requirements for the granting of commercial driving privileges;]

[(b) The department, in its sole discretion, finds good cause exists for reinstatement; and]

[(c) The department finds that the person has successfully completed rehabilitation as approved by the department.]

[(5) The department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record, report or notice described in subsection (3) of this section that relates to conduct that occurred after the person's commercial driving privileges were reinstated under subsection (4) of this section. The department may not reinstate the commercial driving privileges for the lifetime of a person whose commercial driving privileges are suspended under this subsection.]

SECTION 109. (1) **The amendments to ORS 809.520 by section 107 of this 2021 Act become operative on September 23, 2022.**

(2) **The amendments to ORS 809.520 by section 108 of this 2021 Act become operative on January 1, 2023.**

SECTION 110. ORS 809.545 is amended to read:

809.545. (1) Except as provided in subsections (2) and (3) of this section, a person is entitled to administrative review under ORS 809.440 for a suspension of commercial driving privileges under ORS 809.510 to 809.545, or a suspension of the right to apply for commercial driving privileges under ORS 809.540.

(2) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.510 (3) or (4), or a suspension of the right to apply for commercial driving privileges under ORS 809.540 based on ORS 809.510 (3) or (4).

(3) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.520 [(2) or (4)] **(3) or (5)** when the suspension is based on conduct described in ORS 809.510 (3) or (4), or a suspension of the right to apply for commercial driving privileges under ORS 809.540 when the suspension is based on conduct described in ORS 809.510 (3) or (4).

SECTION 111. ORS 809.545, as amended by section 110 of this 2021 Act, is amended to read:

809.545. (1) Except as provided in subsections (2) and (3) of this section, a person is entitled to administrative review under ORS 809.440 for a suspension of commercial driving privileges under ORS 809.510 to 809.545, or a suspension of the right to apply for commercial driving privileges under ORS 809.540.

(2) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.510 [(3) or (4)] **(3), (4) or (5)**, or a suspension of the right to apply for commercial driving privileges under ORS 809.540 based on ORS 809.510 [(3) or (4)] **(3), (4) or (5)**.

(3) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.520 (3) [or (5)] when the suspension is based on conduct described in ORS 809.510 [(3) or (4)] **(3), (4) or (5)**, or a suspension of the right to apply for commercial driving privileges under ORS 809.540 when the suspension is based on conduct described in ORS 809.510 [(3) or (4)] **(3), (4) or (5)**.

SECTION 112. (1) **The amendments to ORS 809.545 by section 110 of this 2021 Act become operative on September 23, 2022.**

(2) **The amendments to ORS 809.545 by section 111 of this 2021 Act become operative on January 1, 2023.**

SECTION 113. ORS 811.182 is amended to read:

811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the person violates ORS 811.175 and the suspension or revocation is one described in this section, or if the hardship permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

- (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;
- (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(c) A suspension of commercial driving privileges under ORS 809.510 resulting from failure to perform the duties of a driver under ORS 811.700.

(d) A suspension of commercial driving privileges under ORS 809.510 [(6)] (7) where the person's commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute that is substantially similar to ORS 813.100.

(e) A suspension of commercial driving privileges under ORS 809.520.

(f) A revocation resulting from habitual offender status under ORS 809.640.

(g) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, other than a crime described in subsection (3) of this section.

(h) A suspension for failure to perform the duties of a driver under ORS 811.705.

(i) A suspension for reckless driving under ORS 811.140.

(j) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

(k) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under ORS 813.010.

(L) A suspension for use of a motor vehicle in the commission of a crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is convicted of the offense described in this section and the underlying suspension resulted from driving while under the influence of intoxicants, the court shall impose a minimum fine of at least \$1,000 if it is the person's first conviction for criminal driving while suspended or revoked and a minimum fine of at least \$2,000 if it is the person's second or subsequent conviction.

(6)(a) The Oregon Criminal Justice Commission shall classify a violation of this section that is a felony as crime category 4 of the rules of the commission.

(b) Notwithstanding paragraph (a) of this subsection, the commission shall classify a violation of this section that is a felony as crime category 6 of the rules of the commission, if the suspension or revocation resulted from:

(A) Any degree of murder, manslaughter or criminally negligent homicide or an assault that causes serious physical injury, resulting from the operation of a motor vehicle; or

(B) Aggravated vehicular homicide or aggravated driving while suspended or revoked.

SECTION 114. Section 115 of this 2021 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 115. The provisions of ORS 809.510 to 809.545 apply:

(1) When an individual's conduct involves driving a commercial motor vehicle, without regard to whether an individual held commercial driving privileges on the date the conduct occurred.

(2) When an individual's conduct involves driving a motor vehicle, if the individual held commercial driving privileges in any jurisdiction on the date the conduct occurred.

SECTION 116. ORS 813.055 is amended to read:

813.055. (1) The Department of Transportation shall impose a civil penalty on the operator of a commercial motor vehicle if:

(a) The operator has violated an out-of-service order issued under ORS 813.050 or any other out-of-service order or notice issued by the department or an authorized representative of the department; or

(b) The department receives notification that a person has violated any out-of-service order or notice issued by a state or federal agency.

(2) For the purposes of this section, "notification" may include, but is not limited to, a record of conviction or a record of a determination by a state or federal agency with jurisdiction to determine that the operator has violated an out-of-service order or notice.

(3) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. The civil penalties imposed may not be reduced.

[(3)] (4) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745. *[and may not be reduced. The civil penalties are:]*

[(a) \$2,500 for the first violation of an out-of-service order or notice.]

[(b) \$5,000 for a second or subsequent violation of an out-of-service order or notice.]

SECTION 117. ORS 813.130 is amended to read:

813.130. *[This section establishes the requirements for information about rights and consequences for purposes of ORS 813.100 and 813.410. The following apply to the information about rights and consequences:]*

(1) **For the purposes of ORS 813.100 and 813.410**, the information about rights and consequences shall be substantially in the form prepared by the Department of Transportation. The department may establish any form it determines appropriate and convenient.

(2) Except as provided in subsection (3) of this section, the information about rights and consequences shall be substantially as follows:

(a) Driving under the influence of intoxicants is a crime in Oregon, and the person is subject to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of intoxicants. If the person fails a test, evidence of the failure may also be offered against the person.

(b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test discloses a blood alcohol content of 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood. The person will fail a test for purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:

(A) 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(c) If the person fails a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will not affect the suspension.

(d) If the person fails a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.

(e) After taking a test under ORS 813.100, the person will have a reasonable opportunity, upon request, for an additional chemical test for blood alcohol content to be performed at the person's own expense by a qualified individual of the person's choosing.

(f) The person has a right to a hearing to challenge the validity of the suspension before the suspension becomes effective. The person must make a written request to the department for such a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended. If the person loses at the hearing, the suspension will remain in effect during any court review of the hearing.

(g) If the person is issued a temporary driving permit under ORS 813.100, the information provided to the person shall include the number of hours before the driving permit will be effective and the number of days the permit will be effective.

(h) The information provided to the person shall include the number of days within which a person must request a hearing under ORS 813.410.

(i) The information provided to the person shall include the number of days within which a hearing under ORS 813.410 will be held.

(j) The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.

(k) If the person is driving a commercial motor vehicle, and takes a breath or blood test under ORS 813.100 after being informed of the rights and consequences under paragraphs (a) to (j) of this subsection, the following additional information shall be provided:

(A) If the level of alcohol in the person's blood is 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood, the person's commercial driving privileges or right to apply for commercial driving privileges will be suspended and no hardship permit authorizing the person to drive a commercial motor vehicle will be issued.

(B) The suspension of the person's commercial driving privileges or right to apply for commercial driving privileges will be for the person's lifetime if the person takes a breath or blood test and the level of alcohol in the person's blood is 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood and:

(i) The person previously has been convicted of failure to perform the duties of a driver **while holding commercial driving privileges or while driving a commercial motor vehicle;**

(ii) The person previously has been convicted of a crime punishable as a felony and the person was driving a motor vehicle **while holding commercial driving privileges** at the time the offense was committed;

(iii) **The person previously has been convicted of a crime punishable as a felony and the person was driving a commercial motor vehicle;**

[(iii)] (iv) The person previously has been convicted of driving a commercial motor vehicle while the person's commercial driving privileges or right to apply for commercial driving privileges was suspended or revoked for offenses committed while operating a commercial motor vehicle;

[(iv)] (v) The person previously has been convicted of any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault in the first degree resulting from the operation of a commercial motor vehicle;

(vi) **The person previously has been convicted of aggravated vehicular homicide while holding commercial driving privileges or while driving a commercial motor vehicle;**

(vii) **The person previously has been convicted of aggravated driving while suspended or revoked while holding commercial driving privileges or while driving a commercial motor vehicle;**

[(v)] (viii) The person previously has been convicted of driving while under the influence of intoxicants **while holding commercial driving privileges or while driving a commercial motor vehicle;**

(ix) **The person's commercial driving privileges previously have been suspended under ORS 809.510 for a diversion agreement entered into under ORS 813.230 with respect to conduct that occurred while the person held commercial driving privileges;**

[(vi)] (x) The person's commercial driving privileges previously have been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 **for conduct that occurred while the person held commercial driving privileges or was operating a commercial motor vehicle;** or

[(vii)] (xi) The person's right to apply for commercial driving privileges previously has been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting from the operation of a commercial motor vehicle **or resulting from the operation of a motor vehicle while holding commercial driving privileges.**

(3) A person who refuses to submit to a chemical test after being informed of the rights and consequences in subsection (2) of this section shall be provided additional information, substantially as follows:

(a) If the person refuses to provide consent to a breath or blood test, and is thereafter requested to provide only physical cooperation to submit to a breath or blood test, and the person refuses to physically submit to a test, evidence of that refusal may be offered against the person.

(b) If the person refuses to submit to a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will not affect the suspension. The suspension will be substantially longer if a person refuses a test.

(c) If the person refuses to submit to a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.

(d) If the person refuses to submit to a test under ORS 813.100, the person is not eligible for a hardship permit for at least 90 days, and possibly for three years, depending on the following factors set forth in ORS 813.430:

(A) Whether the person is presently participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction; or

(B) Whether within the five years preceding the date of arrest any of the following occurred:

(i) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replacement Part) became effective;

(ii) The person was convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction, as described in ORS 813.430;

(iii) The person was convicted of driving while under the influence of intoxicants in violation of a municipal ordinance in this state or another jurisdiction, as described in ORS 813.430; or

(iv) The person commenced participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction, as described in ORS 813.430.

(e) If the person refuses to submit to a breath test under ORS 813.100, or refuses to provide a urine sample under ORS 813.131 and 813.132, the person is subject to a fine of at least \$500 and not more than \$1,000.

(f) The person has a right to a hearing to challenge the validity of the suspension before the suspension becomes effective. The person must make a written request to the department for such a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended. If the person loses at the hearing, the suspension will remain in effect during any court review of the hearing.

(g) If the person is issued a temporary driving permit under ORS 813.100, the number of hours before the driving permit will be effective and the number of days the permit will be effective.

(h) The number of days within which a person must request a hearing under ORS 813.410.

(i) The number of days within which a hearing under ORS 813.410 will be held.

(j) The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.

(k) If the person is driving a commercial motor vehicle, further information as follows:

(A) If the person refuses to submit to a test under ORS 813.100, the person's commercial driving privileges or right to apply for commercial driving privileges will be suspended and no hardship permit authorizing the person to drive a commercial motor vehicle will be issued. The suspension will be substantially longer if the person refuses the test.

(B) The suspension of the person's commercial driving privileges or right to apply for commercial driving privileges will be for the person's lifetime if the person refuses to submit to a test under ORS 813.100 and:

(i) The person previously has been convicted of failure to perform the duties of a driver **while holding commercial driving privileges or while driving a commercial motor vehicle**;

(ii) The person previously has been convicted of a crime punishable as a felony and the person was driving a motor vehicle **while holding commercial driving privileges** at the time the offense was committed;

(iii) The person previously has been convicted of a crime punishable as a felony and the person was driving a commercial motor vehicle;

[(iii)] (iv) The person previously has been convicted of driving a commercial motor vehicle while the person's commercial driving privileges or right to apply for commercial driving privileges was suspended or revoked for offenses committed while operating a commercial motor vehicle;

[(iv)] (v) The person previously has been convicted of any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault in the first degree resulting from the operation of a commercial motor vehicle;

(vi) **The person previously has been convicted of aggravated vehicular homicide while holding commercial driving privileges or while driving a commercial motor vehicle;**

(vii) **The person previously has been convicted of aggravated driving while suspended or revoked while holding commercial driving privileges or while driving a commercial motor vehicle;**

[(v)] (viii) **The person previously has been convicted of driving while under the influence of intoxicants while holding commercial driving privileges or while driving a commercial motor vehicle;**

(ix) **The person's commercial driving privileges previously have been suspended under ORS 809.510 for a diversion agreement entered into under ORS 813.230 with respect to conduct that occurred while the person held commercial driving privileges;**

[(vi)] (x) **The person's commercial driving privileges previously have been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 for conduct that occurred while the person held commercial driving privileges or was operating a commercial motor vehicle; or**

[(vii)] (xi) **The person's right to apply for commercial driving privileges previously has been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting from the operation of a commercial motor vehicle or resulting from the operation of a motor vehicle while holding commercial driving privileges.**

(4) Nothing in this section prohibits the department from providing additional information concerning rights and consequences that the department considers convenient or appropriate.

SECTION 118. ORS 813.410 is amended to read:

813.410. (1) If the Department of Transportation receives from a police officer a report that is in substantial compliance with ORS 813.120, the department shall suspend the driving privileges of the person in this state on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A suspension of driving privileges imposed under this subsection shall be for a period of time established under ORS 813.420.

(2) If the department receives from a police officer a report under ORS 813.120 and the person holds commercial driving privileges and the person was driving a motor vehicle or commercial motor vehicle and refused to submit to a test under ORS 813.100 or the person was driving a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol, the department shall suspend the person's commercial driving privileges on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A commercial driving privileges suspension imposed under this subsection shall be for a period of time established under ORS 809.510 or 809.520.

(3) **If the department receives from a police officer a report under ORS 813.120 and the person holds commercial driving privileges and the person was driving a motor vehicle that is not a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.08 percent or more by weight of alcohol, the department shall suspend the person's commercial driving privileges on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A commercial driving privileges suspension imposed under this subsection shall be for a period of time established under ORS 809.510 or 809.520.**

[(3)] (4) If within 10 days from the date of arrest, or, if the person fails a blood test, within 10 days from the date the department sends notice of suspension, the department receives a request for a hearing from a person whose driving privileges or commercial driving privileges the department

proposes to suspend under this section, the department shall provide a hearing in accordance with this section. The person shall request a hearing in the form and manner prescribed by the department by rule. Except as otherwise provided under this section, a hearing held by the department under this section is subject to the provisions for contested cases, other than appeal provisions, under ORS chapter 183. The applicable appeal provisions are as provided under ORS 813.450 and section 24, chapter 672, Oregon Laws 1985. Notwithstanding ORS 809.430, the department is not required to give any notice of intent to suspend or suspension in addition to that provided under ORS 813.100.

~~[(4)]~~ **(5)** Except as provided in subsection ~~[(5)]~~ **(6)** of this section, a hearing required by this section is subject to all of the following:

(a) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(b) The administrative law judge shall conduct the hearing by telephone or other two-way electronic communication device.

(c) The department may authorize the administrative law judge to issue a final order in any case.

(d) A person who requests a hearing under this section and who fails, without just cause, to appear personally or through an attorney waives the right to a hearing. If a person waives a right to a hearing under this paragraph, the department is not required to make any showing at hearing.

(e) Except as provided in ORS 813.440 or upon remand under ORS 813.450, the department shall hold the hearing and issue a final order within 30 days of the date of the arrest or, if the person fails a blood test, within 60 days from the date the department received the report of the failure.

(f) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the appearance of witnesses by telephone or other two-way electronic communication device at the hearing requested by the person or the department and the production of relevant documents.

(g) The hearing shall be recorded by whatever means may be determined by the department and shall include testimony and exhibits, if any. The record of the proceedings may not be transcribed unless requested by a party to the proceeding.

~~[(5)(a)]~~ **(6)(a)** A person or a police officer may request that a hearing required by this section be conducted in person.

(b) The department, by rule, shall establish the manner and time limitation requirements by which a person or a police officer may request that a hearing be conducted in person.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, a hearing requested under this subsection shall be held either in the county where the alleged offense occurred or at any place within 100 miles of the place where the offense is alleged to have occurred, as established by the department by rule.

(d) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the attendance of witnesses at the hearing requested under this subsection by the person and the production of relevant documents.

~~[(6)]~~ **(7)** This subsection shall be narrowly construed so as to effect the legislative purpose of limiting the scope of hearings under this section. The scope of a hearing under this section shall be limited to whether the suspension is valid as described in this subsection. A suspension under this section is valid if all of the following requirements have been met:

(a) The person, at the time the person was requested to submit to a test under ORS 813.100, was under arrest for driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance.

(b) The police had reasonable grounds to believe, at the time the request was made, that the person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(c) The person refused a test under ORS 813.100, or took a breath or blood test and the test disclosed that the level of alcohol in the person's blood at the time of the test was:

- (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;
- (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or
- (C) Any amount if the person was under 21 years of age.
- (d) If the report under ORS 813.120 indicates that the person was driving a commercial motor vehicle, the vehicle was in fact a commercial motor vehicle as defined in ORS 801.208.

(e) The person had been informed under ORS 813.100 of rights and consequences as described under ORS 813.130.

(f) The person was given written notice required under ORS 813.100.

(g) If the person arrested submitted to a test under ORS 813.100, the person administering the test was qualified to administer the test under ORS 813.160.

(h) If the person arrested submitted to a test under ORS 813.100, the methods, procedures and equipment used in the test complied with requirements under ORS 813.160.

[~~(7)~~] **(8)** A suspension imposed under this section shall remain in effect pending any appeal or remand of a final order issued under this section and there shall be no stay of the suspension pending appeal or remand.

[~~(8)~~] **(9)** Unless a person fails, without just cause, to appear personally or through an attorney at a hearing requested under this section, a person shall have the right to appeal any final order by the department after a hearing under this section by filing a petition. The following apply to this subsection:

(a) The person shall file the 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 took place within 30 days after issuance of the final order of the department.

(b) The court upon receipt of the petition shall set the matter for hearing upon 10 days' notice to the department and the petitioner unless hearing is waived by both the department and the petitioner.

SECTION 119. ORS 813.460 is amended to read:

813.460. If the Department of Transportation verifies to its satisfaction that it has suspended the driving privileges of the wrong person under ORS 813.410 because a person arrested for driving under the influence of intoxicants gave false identification at the time of the arrest, all the following apply:

(1) The department shall immediately rescind the suspension order under the false name and shall issue a suspension order for the period set forth in ORS 813.420 to the person arrested.

(2) The department shall issue the order in the manner set forth in ORS 809.430.

(3) No further notice of suspension need be given.

(4) The time limitations in ORS 813.410 (1), (2), (3) [~~and (4)(e)~~], **(4) and (5)(e)** do not apply to a suspension order issued under this section.

SECTION 120. ORS 825.410 is amended to read:

825.410. (1) Every motor carrier must:

(a) Have an in-house drug and alcohol testing program that meets the federal requirements of 49 C.F.R. part 382; or

(b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the federal requirements.

(2) At the time of registration or renewal of registration of a commercial vehicle or a commercial motor vehicle under any provision of ORS chapter 803 or 826, a motor carrier must certify to the Department of Transportation that the carrier is in compliance with subsection (1) of this section and, if the carrier belongs to a consortium, must provide the department with the names of persons who operate the consortium.

[~~(3) When a medical review officer of a motor carrier's testing program or of the consortium the carrier belongs to determines that a positive test result is valid, the officer must report the finding to the department.~~]

SECTION 121. ORS 825.415 is amended to read:

825.415. (1) As used in this section [*and ORS 825.418*], “school transportation provider” means a school district or a school district contractor that uses school buses or school activity vehicles for:

(a) The transportation of students or school personnel to or from school or school-related activities; or

(b) Public transportation purposes as provided in ORS 332.427.

(2) Every school transportation provider shall:

(a) Have an in-house drug and alcohol testing program that meets the federal requirements of 49 C.F.R. part 382; or

(b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the federal requirements.

(3) Each calendar year, a school transportation provider shall certify to the Department of Education that the provider is in compliance with subsection (2) of this section and, if the provider belongs to a consortium, shall provide the department with the names of persons who operate the consortium.

(4) When a medical review officer of a school transportation provider’s testing program or of the consortium the provider belongs to determines that a positive test result is valid, the officer shall report the finding to the [*Department of Transportation and to the*] department [*of Education*].

SECTION 122. ORS 825.960 is amended to read:

825.960. (1) When the Department of Transportation receives notification that a person has violated an out-of-service order or notice, the department shall impose a civil penalty [*of not less than \$2,750 or more than \$25,000*] on the employer of an operator of a commercial motor vehicle if the department finds that the employer knowingly allowed, permitted, authorized or required the operator to violate the order or notice.

(2) For purposes of this section, “notification” includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice.

(3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(4) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(5) The department may adopt by rule a schedule establishing the amount of the civil penalty that may be imposed under this section.

SECTION 123. ORS 825.412 and 825.418 are repealed.

SECTION 124. (1) **Section 115 of this 2021 Act and the amendments to statutes by sections 104 to 108, 113, 116 to 119 and 122 of this 2021 Act apply to conduct giving rise to a driving privilege restriction, cancellation, suspension or revocation imposed on or after the applicable operative date specified in section 169 of this 2021 Act. Driving privilege restrictions, cancellations, suspensions or revocations imposed before the applicable operative date specified in section 169 of this 2021 Act shall continue to be governed by the law applicable to driving privilege restrictions, cancellations, suspensions and revocations in effect immediately before the applicable operative date specified in section 169 of this 2021 Act.**

(2) Section 103 of this 2021 Act does not apply to a person who holds a commercial driver license, school bus endorsement, passenger endorsement or hazardous materials endorsement before February 7, 2022.

(3) Section 103 of this 2021 Act applies to conduct giving rise to a driving privilege cancellation or suspension imposed on or after February 7, 2022.

DEFINITION OF AUTOCYCLE

SECTION 125. ORS 801.133 is amended to read:

801.133. "Autocycle" means a motorcycle that:

- (1) Is manufactured to travel on three wheels;
- [2] *Has a steering wheel for steering control;*
- [3] **(2)** Has nonstraddle seating; and
- [4] **(3)** Is equipped with a manufacturer-installed three-point safety belt or safety harness.

REPLACING VEHICLE REGISTRATION PLATES

SECTION 126. ORS 803.530 is amended to read:

803.530. (1) Registration plates assigned to a vehicle by the Department of Transportation shall remain with the vehicle to which the plates are assigned and are valid only during the registration period for which the plates are issued except as provided in this section.

(2) The department may allow registration plates to be transferred to another vehicle if:

- (a) The department receives an application;
- (b) The applicant pays the plate transfer fee under ORS 803.575; and
- (c) The applicant complies with the registration qualifications described in ORS 803.350.

(3) The department shall transfer registration plates under this section if the applicant and the vehicle qualify for the plates and the plates are:

- (a) Legible and capable of being used for identification purposes; and
- (b) Any of the following:

(A) From a current issue of registration plates;

(B) Customized registration plates described under ORS 805.240;

(C) Oregon Trail commemorative registration plates issued under section 113, chapter 741, Oregon Laws 1993;

(D) Special registration plates issued under ORS 805.255, 805.260, 805.263, 805.266, 805.278 or 805.283;

(E) Group registration plates issued under ORS 805.205;

(F) Veterans' recognition registration plates issued under ORS 805.105;

(G) Pacific Wonderland registration plates issued under ORS 805.287; or

(H) Registration plates issued through the special registration program under ORS 805.222.

(4) Notwithstanding ORS 803.400, when registration plates are transferred from one vehicle to another vehicle owned by the same person, the registration period represented by the plates also transfers with the plates. When registration plates are transferred from one vehicle to another vehicle not owned by the same person, the remaining registration period represented by the transferred plates ceases for both the vehicle receiving the transferred plates and the vehicle from which the plates were removed.

(5) The owner of a registered vehicle to which a plate is assigned may replace a registration plate. The following apply to this subsection:

(a) To replace a plate under this subsection, the owner must apply to the department for replacement of the plate in a form prescribed by the department and pay the replacement plate fee established under ORS 803.575.

(b) The department, in lieu of replacement, may issue duplicate plates for the same fee as charged for replacements.

(c) The plates issued under this subsection are valid only for the period of the plates replaced.

(d) The replaced plates may not be considered customized plates when they are replaced, if:

(A) The original plates were from plates currently issued;

(B) The original plates were not customized plates; and

(C) The replacement plates are a duplicate of the original plates.

(e) When a vehicle is assigned a pair of plates and the owner wishes to replace a single plate, the department may replace a single plate rather than replace both plates.

(6) A county may replace a registration plate that is from a specially designed government series with a registration plate that is from a regular series. The following apply to this subsection:

(a) To replace a plate under this subsection, the county must apply to the department for replacement of the plate in a form prescribed by the department and pay the replacement plate fee established under ORS 803.575.

(b) The plates issued under this subsection are valid only for the period of the plates replaced.

(7) If the department retired the vehicle's registration under ORS 819.030 because the vehicle is totaled or substantially altered, a person may apply under subsection (2) of this section to transfer the registration plates to another vehicle.

(8) Subject to subsections (2) and (4) of this section, after the department authorizes the use of special interest plates under ORS 805.210, a person may apply to transfer the plates to either:

(a) A vehicle that was previously determined by the department to qualify as a vehicle of special interest; or

(b) A vehicle approved by the department as a vehicle of special interest at the time of application.

(9) If a person described in subsection (8) of this section provides the department with only one special interest registration plate for transfer and the department's vehicle records show the special interest registration plate belongs to a vehicle record with no owner matching an applicant, the applicant shall provide proof, as determined by the department by rule, that the plate is no longer used on the vehicle it is currently showing being registered to in the department's vehicle records.

SECTION 127. ORS 803.525 is amended to read:

803.525. The Department of Transportation shall issue two registration plates for every vehicle that is registered by the department except as otherwise provided in this section **or ORS 803.530**. Upon renewal or when otherwise provided under ORS 803.555, the department may issue stickers in lieu of or in addition to registration plates. The following shall be issued plates as described:

(1) Only one registration plate shall be issued for a moped, motorcycle, trailer, antique vehicle or vehicle of special interest registered by the department.

(2) Only one plate shall be issued for a camper that is registered. Stickers may be issued in lieu of a plate.

CONFORMING AMENDMENTS GENERALLY

SECTION 128. ORS 824.990 is amended to read:

824.990. (1) In addition to all other penalties provided by law:

(a) Every person who violates or who procures, aids or abets in the violation of ORS 824.060 (1), 824.084, 824.088, 824.304 (1) or 824.306 (1) or any order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than \$1,000 for every such violation.

(b) Every person who violates or who procures, aids or abets in the violation of any order, rule or decision of the department promulgated pursuant to ORS 824.052 (1), 824.056 (1), 824.068, 824.082 (1) or 824.208 shall incur a civil penalty of not more than \$1,000 for every such violation.

(2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that procures, aids or abets in the violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.

(3) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS 183.745.

(4) The department may reduce any penalty provided for in subsection (1) of this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

GENERAL REPEALS

SECTION 129. ORS 184.631 and 824.104 and sections 2 and 3, chapter 24, Oregon Laws 2018, are repealed.

TRANSPORTATION PROJECTS

SECTION 130. ORS 367.095 is amended to read:

367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 818.270, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 54, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

(a)(A) For calendar years beginning on or after January 1, 2022, \$30 million per year shall be used **to pay** for:

(i) The Interstate 5 Rose Quarter Project;

(ii) **The Interstate 205 Improvements: Stafford Road to Oregon Route 213 Project;**

(iii) **The Interstate 5 Boone Bridge and Seismic Improvement Project; and**

(iv) **The implementation of the toll program established under ORS 383.150.**

(B) [*This*] **The amount described in subparagraph (A) of this paragraph** shall be used to pay for [*the Interstate 5 Rose Quarter Project,*] **costs**, including project costs on a current basis and paying for debt service on bonds issued to finance the [*project*] **projects or toll program**, only until the later of the date on which the [*project*] **projects or toll program** is completed or on which all bonds issued to fund the [*project*] **projects or toll program** have been repaid. Any remaining moneys shall be distributed as described in subsection (3) of this section.

(b) \$10 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:

(a) 50 percent to the Department of Transportation.

(b) 30 percent to counties for distribution as provided in ORS 366.762.

(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:

(a) \$10 million for safety.

(b) Of the remaining balance:

(A) Forty percent for bridges.

(B) Thirty percent for seismic improvements related to highways and bridges.

(C) Twenty-four percent for state highway pavement preservation and culverts.

(D) Six percent for state highway maintenance and safety improvements.

SECTION 131. ORS 367.095, as amended by section 47, chapter 491, Oregon Laws 2019, is amended to read:

367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

(a)(A) \$30 million per year shall be used to pay for:

(i) The Interstate 5 Rose Quarter Project;

(ii) **The Interstate 205 Improvements: Stafford Road to Oregon Route 213 Project;**

(iii) **The Interstate 5 Boone Bridge and Seismic Improvement Project; and**

(iv) **The implementation of the toll program established under ORS 383.150.**

(B) [This] **The amount described in subparagraph (A) of this paragraph** shall be used to pay for [the Interstate 5 Rose Quarter Project] **costs**, including project costs on a current basis and paying for debt service on bonds issued to finance the [project] **projects or toll program**, only until the later of the date on which the [project] **projects or toll program** is completed or on which all bonds issued to fund the [project] **projects or toll program** have been repaid. Any remaining moneys shall be distributed as described in subsection (3) of this section.

(b) \$15 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:

(a) 50 percent to the Department of Transportation.

(b) 30 percent to counties for distribution as provided in ORS 366.762.

(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:

(a) \$10 million for safety.

(b) Of the remaining balance:

(A) Forty percent for bridges.

(B) Thirty percent for seismic improvements related to highways and bridges.

(C) Twenty-four percent for state highway pavement preservation and culverts.

(D) Six percent for state highway maintenance and safety improvements.

TOLLING

SECTION 132. ORS 383.001 is added to and made a part of ORS 383.003 to 383.075.

SECTION 133. ORS 383.001 is amended to read:

383.001. The Legislative Assembly finds that:

(1) The development, improvement, expansion and maintenance of an efficient, safe and well-maintained system of roads, highways and other transportation facilities is essential to the economic well-being and high quality of life of the people of this state.

(2) Public sources of revenues, including federal funding, to provide an efficient transportation system have not kept pace with the state's growing population and growing transportation needs, and all available alternative sources of funding should be utilized to supplement available public sources of revenues.

(3) Because public funding sources are not providing the state with sufficient funds to meet all of its transportation needs, private funding should be encouraged as an additional source of funding for transportation projects and facilities.

(4) Various alternatives for utilizing the funds of private entities in the acquisition, design, construction, reconstruction, operation and maintenance of transportation facilities exist, including arrangements whereby private entities obtain exclusive agreements to design, build, own, lease or operate with private funds all or a portion of transportation projects and facilities in exchange for the right to receive certain revenues generated from the operation and utilization of such transportation projects and facilities.

(5) Another important alternative for the funding of transportation facilities is the use of federal funds pursuant to 23 U.S.C. 129(a), as amended by section 112 of the Intermodal Surface Transportation Efficiency Act of 1991, which established a program authorizing federal participation in construction of publicly or privately owned toll highways, bridges and tunnels.

(6) The federal legislation allows for a mix of federal funding and private funding of transportation facilities, allowing the states to leverage available federal funds as a means for attracting private capital.

(7) Legislation for the utilization of private funding of transportation facilities should be flexible enough to permit the Department of Transportation to obtain the advantages of any available alternative under which the acquisition, design, construction, reconstruction, operation, maintenance and repair of transportation facilities can be financed in whole or in part or in combination by any available sources of private or public funding.

(8) The funding of transportation facilities through the imposition of tolls on those who use such facilities is a fair and impartial means of assessing the costs of improvements against those who most benefit from such improvements, and is consistent with public policy.

(9) Joint endeavors of public and private entities do the following:

(a) Take advantage of private sector efficiencies in designing, constructing and operating transportation projects.

(b) Allow for the rapid formation of capital necessary for funding transportation projects.

(c) Require continued compliance with environmental requirements and applicable state and federal laws that all publicly financed projects must address.

(10) Significant traffic congestion adversely impacts Oregon's economy and the quality of life of Oregon's communities. Where appropriate, variable rate tolls should be applied to reduce traffic congestion and support the state's greenhouse gas emissions reduction goals.

SECTION 134. ORS 383.003 is amended to read:

383.003. As used in ORS 383.003 to 383.075:

(1) "Department" means the Department of Transportation.

[(2) "*Electronic toll collection system*" means a system that records use of a tollway by electronic transmissions to or from the vehicle using the tollway and that collects tolls, or that is capable of charging an account established by a person for use of the tollway.]

[(3) "*Photo enforcement system*" means a system of sensors installed to work in conjunction with an electronic toll collection system and other traffic control devices and that automatically produces videotape or one or more photographs, microphotographs or other recorded images of a vehicle in connection with the collection or enforcement of tolls.]

(2) "Electronic toll collection system" means a system for collecting tolls that:

(a) Does not require a vehicle to stop at a toll booth to pay the toll; and

(b) Uses transponder readers and license plate capture cameras to aid in collecting tolls.

[(4)] (3) "Private entity" means any nongovernmental entity, including a corporation, partnership, company or other legal entity, or any natural person.

[(5)] (4) "Related facility" means any real or personal property that:

(a) Will be used to operate, maintain, renovate or facilitate the use of the tollway;

(b) Will provide goods or services to the users of the tollway; or

(c) *[Can be developed efficiently when tollways are developed and]* Will generate revenue that may be used to reduce tolls or will be deposited in the *[State Tollway Account]* **Toll Program Fund.**

[(6)] **(5)** “Toll” means any fee or charge for the use of a tollway.

[(7)] “**Toll booth collections**” means the manual or mechanical collection of cash or charging of an account at a toll plaza, toll booth or similar fixed toll collection facility.]

[(8)] **(6)** “Tollway” means any roadway, path, highway, bridge, tunnel, railroad track, bicycle path or other paved surface or structure specifically designed as a land vehicle transportation route **for the use of which tolls are assessed***[, the construction, operation or maintenance of which is wholly or partially funded with toll revenues resulting from an agreement under ORS 383.005].*

[(9)] **(7)** “Tollway operator” means the unit of government or the private entity that is responsible for **all or any portion of** the construction, reconstruction, *[installation,]* improvement, financing, maintenance, repair and operation of a tollway or a related facility.

[(10)] **(8)** “Tollway project” means any capital project involving the *[acquisition of land for, or the construction, reconstruction, improvement, installation,]* development, **operation** or equipping of~~l,~~ a tollway, related facilities or any portion thereof.

(9) “Tollway project revenue bonds” means revenue bonds designated as tollway project revenue bonds under section 147 of this 2021 Act.

[(11)] **(10)** “Unit of government” means any department or agency of the federal government, any state, any department or agency of a state, any bistate entity created by agreement under ORS 190.420 or other law for the purposes of the Interstate 5 bridge replacement project, and any city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter.

SECTION 135. ORS 383.004 is amended to read:

383.004. (1) Except as provided in subsection (2) of this section, a toll may not be established unless the Oregon Transportation Commission has reviewed and approved the toll. The commission shall adopt rules specifying the process under which proposals to establish tolls will be reviewed. When reviewing a proposal to establish tolls, the commission shall take into consideration:

- (a) The amount and classification of the traffic using, or anticipated to use, the tollway;
- (b) The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;
- (c) The extent of the tollway, including improvements necessary for tollway operation and improvements necessary to support the flow of traffic onto or off of the tollway;
- (d) The location of *[toll plazas or toll collection devices]* **toll booths or electronic toll collection systems** to collect the toll for the tollway;
- (e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;
- (f) The amount of indebtedness incurred for the construction of the tollway and **all expenses and obligations related to the indebtedness including, without limitation, financial covenants, debt service requirements, reserve requirements and any other funding requirements established under the terms of any indenture prepared under section 150 of this 2021 Act and any other contracts establishing the terms of the indebtedness**, if any;
- (g) The value of assets, equipment and services required for the operation of the tollway;
- (h) The period of time during which the toll will be in effect;
- (i) The process for altering the amount of the toll during the period of operation of the tollway;
- (j) The method of collecting the toll; and
- (k) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway.

(2)(a) Nothing in ORS 383.003 to 383.075 prohibits a city or county from establishing a toll on any highway, as defined in ORS 801.305, that the city or county has jurisdiction over as a road authority pursuant to ORS 810.010.

(b) Nothing in ORS 383.003 to 383.075 prohibits Multnomah County from establishing a toll on the bridges across the Willamette River that are within the boundaries of the City of Portland and that are operated and maintained by Multnomah County as required under ORS 382.305 and 382.310.

(c) Nothing in ORS 383.003 to 383.075 prohibits the Port of Hood River from establishing a toll on the bridges across the Columbia River that are operated and maintained by the port.

(d) Nothing in ORS 383.003 to 383.075 prohibits the Port of Cascade Locks from establishing a toll on the bridges across the Columbia River that are operated and maintained by the port.

SECTION 136. ORS 383.009 is amended to read:

383.009. (1) There is hereby established the [State Tollway Account] **Toll Program Fund** as a separate [account] **and distinct fund [within] from** the State Highway Fund. The [State Tollway Account] **Toll Program Fund** shall consist of:

(a) All moneys and revenues received by the Department of Transportation from or made available by the federal government to the department for any tollway project or for the operation or maintenance of any tollway;

(b) Any moneys received by the department from any other unit of government or any private entity for a tollway project or from the operation or maintenance of any tollway;

(c) All moneys and revenues received by the department from any **agreement entered into or loan** made by the department for a tollway project pursuant to ORS 383.005, and from any lease, agreement, franchise or license for the right to the possession and use, operation or management of a tollway project;

(d) All tolls and other revenues received by the department **or tollway operator** from the users of any tollway project;

(e) The proceeds of any bonds authorized to be issued for tollway projects;

(f) Any moneys that the department has legally transferred from the State Highway Fund to the [State Tollway Account] **Toll Program Fund** for tollway projects;

(g) All moneys and revenues received by the department from all other sources that by **gift, bequest, donation, grant, contract or law from any public or private source are for deposit in the Toll Program Fund [are allocated or dedicated for tollway projects];**

(h) All interest earnings on investments made from any of the moneys held in the [State Tollway Account] **Toll Program Fund; [and]**

(i) All civil penalties and administrative fees paid to the department from the enforcement of tolls[.];

(j) Fees paid to the department for information provided under ORS 383.075;

(k) Moneys appropriated for deposit in or otherwise transferred to the Toll Program Fund by the Legislative Assembly; and

(L) Moneys received from federal sources or other state or local sources, excluding proceeds of Highway User Tax Bonds issued under ORS 367.615 that finance projects other than toll projects.

(2) Moneys in the [State Tollway Account] **Toll Program Fund** may be used by the department for the following purposes:

(a) To finance preliminary studies and reports for any tollway project;

(b) To acquire land to be owned by the state for tollways and any related facilities therefor;

(c) To finance the construction, renovation, operation, improvement, maintenance or repair of any tollway project;

(d) To make grants or loans to a unit of government for tollway projects;

(e) To make loans to private entities for tollway projects;

(f) To pay the principal, interest and premium due with respect to, and to pay the costs connected with the issuance or ongoing administration of, any bonds or other financial obligations authorized to be issued by, or the proceeds of which are received by, the department for any tollway project, **including capitalized interest and any rebates or penalties due to the United States in connection with the bonds;**

(g) To provide a guaranty or other security for any bonds or other financial obligations, including but not limited to financial obligations with respect to any bond insurance, surety or credit enhancement device issued or incurred by the department, a unit of government or a private entity, for the purpose of financing a single tollway project or any related group or system of *[tollways]* **tollway projects** or related facilities; *[and]*

(h) To pay the costs incurred by the department in connection with its oversight, operation and administration of the *[State Tollway Account]* **Toll Program Fund**, the proposals and projects submitted under ORS 383.015 and the tollway projects financed under ORS 383.005[.];

(i) To develop, implement and administer the toll program established under ORS 383.150, including the cost of consultants, advisors, attorneys or other professional service providers appointed, retained or approved by the department; and

(j) To make improvements or fund efforts on the tollway and on adjacent, connected or parallel highways to the tollway to reduce traffic congestion as a result of a tollway project, improve safety as a result of a tollway project and reduce impacts of diversion as a result of a tollway project.

(3) For purposes of paying or securing bonds or providing a guaranty, surety or other security authorized by *[subsection (2)(g) of]* this section, the department may:

(a) Irrevocably pledge all or any portion of the amounts that are credited to, or are required to be credited to, the *[State Tollway Account]* **Toll Program Fund**;

(b) Establish subaccounts in the *[State Tollway Account]* **Toll Program Fund**, and make covenants regarding the credit to and use of amounts in those *[accounts and]* subaccounts; and

(c) Establish separate trust funds or accounts and make covenants to transfer to those separate trust funds or accounts all or any portion of the amounts that are required to be deposited in the *[State Tollway Account]* **Toll Program Fund**.

(4) Notwithstanding any other provision of ORS 383.001 to 383.075, the department shall not pledge any funds or amounts at any time held in the *[State Tollway Account]* **Toll Program Fund** as security for the obligations of a **unit of government or a private entity** unless the department has entered into a binding and enforceable agreement that provides the department reasonable assurance that the department will be repaid, with appropriate interest, any amounts that the department is required to advance pursuant to that pledge.

(5) Moneys in the *[State Tollway Account]* **Toll Program Fund** are continuously appropriated to the department for purposes authorized by this section.

(6) Notwithstanding subsection (1) of this section, a city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter is not required to deposit into the Toll Program Fund tolls, or other revenues are received from the users of any tollway, that are assessed by a city, county, district, port or other public corporation organized and existing under statutory law or under a voter-approved charter.

(7) Moneys in the Toll Program Fund that are transferred from the State Highway Fund or are derived from any revenues under Article IX, section 3a, of the Oregon Constitution, may be used only for purposes permitted by Article IX, section 3a, of the Oregon Constitution.

SECTION 137. The Toll Program Fund is a continuation of the State Tollway Account. Moneys contained in the State Tollway Account on the effective date of this 2021 Act are considered to be moneys in the Toll Program Fund.

SECTION 138. ORS 383.155 is repealed.

SECTION 139. (1) The Congestion Relief Fund, established under ORS 383.155, is abolished.

(2) Any moneys remaining in the Congestion Relief Fund on the effective date of this 2021 Act that are unexpended, unobligated and not subject to any conditions shall be transferred to the Toll Program Fund established under ORS 383.009.

SECTION 140. ORS 383.014 is amended to read:

383.014. *[The Oregon Transportation Commission shall set standards by rule for electronic toll collection systems and photo enforcement systems used on tollways in this state to ensure that systems used in Oregon and systems used in the State of Washington are compatible to the extent technology permits.]* **The Oregon Transportation Commission shall establish criteria when selecting electronic toll collection systems used in this state to ensure interoperability with tolling systems used in other states, to the extent that technology facilitating interoperability exists.**

SECTION 141. ORS 383.017 is amended to read:

383.017. *[(1) The Department of Transportation may award any contract, franchise, license or agreement related to a tollway project, other than a concession for the provision of goods or services at a rest area, under a competitive process or by private negotiation with one or more entities, or by any combination of competition and negotiation without regard to any other laws concerning the procurement of goods or services for projects of the state.]*

[(2) When using a competitive process for the award of a tollway project contract, the department shall consider the following factors in addition to the proposer's estimate of cost:]

[(a) The quality of the design, if applicable, submitted by a proposer. In considering the quality of the design of a tollway project, the department shall take into consideration:]

[(A) The structural integrity of the design, including the probable effect of the design on the future costs of maintenance of the tollway;]

[(B) The aesthetic qualities of the design, including such factors as the width of lane separators, landscaping and sound walls;]

[(C) The traffic capacity of the design;]

[(D) The aspects of the design that affect safety, such as the lane width, the quality of lane markers and separators, the shape and positioning of ramps and curves and the changes in elevation; and]

[(E) The ease with which traffic will be able to pass through the toll collection facilities.]

[(b) The extent to which small businesses will be involved in the tollway project. The department shall encourage participation by small businesses to the maximum extent the department determines is practicable. As used in this paragraph, "small business" means an independent business with fewer than 20 employees and with average annual gross receipts over the last three years not exceeding \$1 million for construction firms and \$300,000 for nonconstruction firms. "Small business" does not include a subsidiary or parent company belonging to a group of firms that are owned and controlled by the same individuals and that have average aggregate annual gross receipts in excess of \$1 million for construction firms or \$300,000 for nonconstruction firms over the last three years.]

[(c) The financial stability of the proposer and the ability of the proposer to provide funding for the tollway project and surety for its performance and financial obligations with respect to the tollway project.]

[(d) The experience of the proposer and its subcontractors in building and operating projects such as the tollway project.]

[(e) The terms of the financial arrangement proposed or accepted by the proposer with respect to franchise fees, license fees, lease payments or operating expenses and the proposer's required rate of return from its operation or maintenance of the tollway.]

[(3)(a) The department may adopt rules and procedures for the award of franchises, licenses, leases or other concessions for rest areas without regard to any other laws concerning the procurement of goods or services for projects of the state. All such franchises, licenses, leases or other concessions shall require the franchisee, licensee, lessee or concessionaire, as applicable, to maintain the subject premises in accordance with all applicable state and federal health and safety standards, to maintain one or more policies of casualty and property insurance and adequate workers' compensation insurance, and to pay and discharge all taxes, utilities, fees and other charges or claims that are levied, assessed or charged against the premises or concession or that may become a lien upon the premises. The rules shall encourage participation by small businesses to the maximum extent the department determines is practicable. The department may grant any small business a 10 percent or greater bid advantage in any bidding process for a concession.]

[(b) As used in this subsection, “small business” means an independent business with fewer than 20 employees and with average annual gross receipts over the last three years not exceeding \$300,000. “Small business” does not include a subsidiary or parent company belonging to a group of firms that are owned and controlled by the same individuals and that have average aggregate annual gross receipts in excess of \$300,000 over the last three years. “Small business” also does not include a franchise of any business that has average aggregate annual gross receipts in excess of \$300,000 over the last three years.]

[(4) Notwithstanding any other provision of this section, the department may use any method for the award of any contract, franchise, license or agreement that is necessary to comply with the requirements of any grant or other funding source.]

[(5) If public funds are involved in the project, construction of a tollway project shall be subject to the prevailing wage requirements of ORS 279C.800 to 279C.870.]

[(6) For purposes of complying with applicable state and local land use laws, including statewide planning goals, comprehensive plans, land use regulations, ORS chapters 195, 196, 197, 198, 199, 215, 221, 222 and 227, and any requirement imposed by the Land Conservation and Development Commission, a tollway project shall be treated as a project of the department and not as a project of any other person or entity.]

[(7) (1) Tollways, and any related facilities that would normally be purchased, constructed or installed by the Department of Transportation if the tollway were a conventional highway that was constructed and operated by the department, shall be exempt from ad valorem property taxation.

[(8) (2) Tollways are considered state highways for purposes of law enforcement and application of the Oregon Vehicle Code.

SECTION 142. ORS 383.035 is amended to read:

383.035. (1) A person shall pay a toll established under ORS 383.004.

*[(1) (2) A person who fails to pay a toll[,] established [pursuant to] under ORS 383.004[,] shall pay to the Department of Transportation the amount of the toll, a civil penalty [of not more than \$25] and an administrative fee established by the tollway operator not to exceed the actual cost of collecting the unpaid toll. **The department shall adopt by rule the amount of civil penalty that may be imposed for each violation of subsection (1) of this section.***

*(3) **A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the department considers proper and consistent.***

*[(2) (4) In addition to any other penalty, the department shall refuse to renew the motor vehicle registration of [the] a motor vehicle [owned by a person who] **when the registered owner of the motor vehicle** has not paid the toll, the civil penalty and any administrative fee charged under this section.*

[(3) (5) This section does not apply to:

[(a) A person operating a vehicle owned by a unit of government or the tollway operator;]

[(b) (a) A person who is a member of a category of persons exempted by the Oregon Transportation Commission from paying a toll; or

[(c) (b) A person who is a member of a category of persons made eligible by the commission for paying a reduced toll, to the extent of the reduction.

[(4) Subsection (1) of this section does not apply to a person who fails to pay a toll established under section 8, chapter 4, Oregon Laws 2013.]

[(5)(a) Upon receiving a request from the State of Washington, or from the State of Washington’s designee that has contracted with the State of Washington to collect tolls, the department shall provide information to identify registered owners of vehicles who fail to pay a toll established under section 8, chapter 4, Oregon Laws 2013.]

[(b) If the State of Washington, or the State of Washington’s designee that has contracted with the State of Washington to collect tolls, gives notice to the department that a person has not paid a toll established under section 8, chapter 4, Oregon Laws 2013, or a civil penalty or administrative fee im-

posed by reason of failure to pay the toll, the department shall refuse to renew the Oregon motor vehicle registration of the motor vehicle operated by the person at the time of the violation.]

[*(c) The department may renew an Oregon motor vehicle registration of a person described in paragraph (b) of this subsection upon receipt of a notice from the State of Washington, or from the State of Washington's designee, indicating that all tolls, civil penalties and other administrative fees owed by the person have been paid.*]

(6) Civil penalties imposed under this section shall be imposed in the manner provided by ORS 183.745.

SECTION 143. ORS 383.045 is amended to read:

383.045. (1) A recorded image produced by an electronic toll collection system shall capture only images of a vehicle and the license plate of the vehicle.

[*(1)*] **(2)** Except as provided in subsection [*(2)*] **(3)** of this section, a recorded image of a vehicle and the [*registration*] **license** plate of the vehicle produced by [*a photo enforcement*] **an electronic toll collection** system at the time the driver of the vehicle did not pay a toll shall be prima facie evidence that the registered owner of the vehicle is the driver of the vehicle.

[*(2)*] **(3)** If the registered owner of a vehicle is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty and administrative fee.

[*(3)*] **(4)** A registered owner of a vehicle who pays the toll, civil penalty and administrative fee is entitled to recover the same from the driver, renter or lessee of the vehicle.

SECTION 144. ORS 383.075 is amended to read:

383.075. (1) Except as provided in subsections (2) and (3) of this section, records and information used to collect and enforce tolls are exempt from disclosure under public records law and are to be used solely for toll collection [*and traffic management by the Department of Transportation*].

(2) Information collected or maintained by an electronic toll collection system may not be disclosed to anyone except:

(a) The owner of an account that is charged for the use of a tollway;

(b) **A collection agency, as defined in ORS 697.005, a payment processor as defined by the Department of Transportation by rule, an agency, as defined in ORS 183.310, or a financial institution, as necessary to collect tolls owed;**

(c) Employees of the department;

(d) The tollway operator and authorized employees of the operator;

(e) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; [*and*]

(f) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls[.]; **and**

(g) As requested for use in any civil, criminal or other legal proceeding or investigation that relates to the use of a tollway.

(3) Information collected or maintained by a photo enforcement system may not be disclosed to anyone except:

(a) The registered owner [*or apparent driver*] of the vehicle;

(b) Employees of the department;

(c) The tollway operator and authorized employees of the operator;

(d) A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and

(e) An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls.

(4) The department may charge a reasonable fee under ORS 192.324 for providing information under this section.

(5) The department may adopt rules specifying conditions that must be met by a person or unit of government requesting information under this section. Conditions may include but are not limited to:

- (a) Providing reasonable assurance of the identity of the requester;
- (b) Providing reasonable assurance of the uses to which the information will be put, if applicable;
- (c) Showing that the person whose information is to be disclosed has given permission for the disclosure, if permission is required; and
- (d) Submitting a written request for the information in a form prescribed by the department.

SECTION 145. ORS 383.150 and sections 147 to 152 of this 2021 Act are added to and made a part of ORS 383.003 to 383.075.

SECTION 146. ORS 383.150 is amended to read:

383.150. (1) The Oregon Transportation Commission shall establish a *[traffic congestion relief program]* **toll program.**

[(2) No later than December 31, 2018, the commission shall seek approval from the Federal Highway Administration, if required by federal law, to implement value pricing as described in this section.]

[(3)] **(2) As part of the toll program,** after seeking and receiving approval from the Federal Highway Administration, the commission *[shall implement value pricing to reduce traffic congestion]* **may assess variable rate tolls.** *[Value pricing]* **Tolling** may include, but is not limited to **assessing variable rate tolls for the purpose of:***[, variable time-of-day pricing.]*

(a) Managing congestion; and

(b) Partially or wholly funding the construction, operation or maintenance of a highway.

(3) The commission shall *[implement value pricing]* **assess tolls** in the following locations:

(a) On Interstate 205, beginning at the Washington state line and ending where it intersects with Interstate 5 in this state.

(b) On Interstate 5, beginning at the Washington state line and ending where it intersects with Interstate 205.

[(4) In addition to areas listed in subsection (3) of this section, the commission may implement value pricing in other areas of this state.]

[(5) Notwithstanding ORS 383.009, the revenues received from value pricing under this section shall be deposited into the Congestion Relief Fund established under ORS 383.155 for the implementation and administration of the congestion relief program established pursuant to this section, including but not limited to the Value Pricing Set-Up Project.]

[(6) Subject to any restrictions in an agreement with the Federal Highway Administration or other federal law, in addition to the amounts received from value pricing under this section, the moneys in the Congestion Relief Fund shall be used to implement and administer the traffic congestion relief program.]

(4) To the extent necessary and permitted by state and federal law and Article IX, section 3a, of the Oregon Constitution, the commission shall ensure tolls assessed pursuant to subsection (3) of this section or tolls assessed as part of the Interstate 5 Boone Bridge and Seismic Improvement Project:

(a) Reduce traffic congestion by managing demand on the tollway and by improving operations on the tollway;

(b) Reduce traffic congestion as a result of the tollway, not only on the tollway but also on adjacent, connected or parallel highways to the tollways, regardless of ownership;

(c) Improve safety not only on the tollway but also on adjacent, connected or parallel highways to the tollways, regardless of ownership; and

(d) Minimize and mitigate impacts to historically and currently underrepresented and disadvantaged communities.

(5) Any unit of government assessing tolls on highways for which the unit of government is the road authority, pursuant to ORS 810.010, shall collaborate with other units of government to:

(a) Determine whether assessing tolls may result in traffic, equity, safety or climate impacts as a result of assessing tolls;

(b) Determine appropriate investments or efforts that may minimize or reduce any potential impacts; and

(c) Periodically review any investments or efforts identified and implemented under this subsection.

[7] (6) Before *[imposing value pricing]* assessing tolls in the locations described under subsection (3) of this section, the commission shall report to the Joint Committee on Transportation established under ORS 171.858.

[8] (7) The commission may enter into agreements with the State of Washington, or the State of Washington's tollway operator or other designee, relating to establishing, reviewing, adjusting and collecting tolls for the program described in this section.

(8) As used in this section, "highway" has the meaning given that term in ORS 366.005.

SECTION 147. Revenue bonds for tollway projects. (1) In accordance with the applicable provisions of ORS chapter 286A, the State Treasurer, at the request of the Department of Transportation, may issue and sell revenue bonds known as tollway project revenue bonds for the purpose of financing tollway projects, provided that such bonds do not constitute a debt or general obligation of the department or of this state or any of its political subdivisions, but shall be payable solely from the revenues, amounts, funds and accounts described in ORS 383.009 and sections 148 and 151 of this 2021 Act.

(2) The proceeds of bonds issued under this section may be used by the department or loaned or granted to a private entity or a local government, as defined in ORS 174.116, for the purposes of:

(a) Financing any portion of the costs related to the purposes described in ORS 383.009 (2);

(b) Funding any required reserves; and

(c) Paying costs of issuing the bonds.

(3) The bonds authorized by this section may be issued as taxable bonds or as tax-exempt bonds under the income tax laws of the United States.

(4) Notwithstanding the status of the bonds for federal income tax purposes, interest paid to the owners of the bonds shall be exempt from personal income taxes imposed by this state.

(5) Subject to the limitations under ORS 383.004 and 383.009, when issuing bonds under this section, the department and the State Treasurer may make covenants with bondholders regarding the imposition and regulation of tolls to meet the department's obligations under the terms of any indenture prepared under section 150 of this 2021 Act, any loan agreement and any grant agreement, including without limitation:

(a) Financial covenants, debt service requirements, reserve requirements and any other funding requirements;

(b) The use of the amounts required to be deposited in the Toll Program Fund; and

(c) The issuance of additional bonds.

(6) The state may not in any way impair obligations of any agreement between the state and holders of tollway project revenue bonds issued under this section.

(7) The department, with the approval of the State Treasurer, may designate the extent to which a series of tollway project revenue bonds authorized under this section is secured and payable:

(a) On a parity of lien or on a subordinate basis to existing or future Highway User Tax Bonds issued under ORS 367.615, but only if sufficient moneys described under ORS 367.605 may be pledged to:

(A) First, pay the annual bond debt service of all Highway User Tax Bonds issued pursuant to ORS 367.615 and 367.620; and

(B) Second, pay the annual bond debt service for all tollway project revenue bonds issued under this subsection; or

(b) From additional revenue sources as permitted under section 148 of this 2021 Act.

(8) A holder of tollway project revenue bonds issued under this section may not compel the payment of federal transportation funds to the department.

(9) This section is supplemental and in addition to any other authority in ORS chapters 286A, 366 and 367 for the issuance of bonds by the State Treasurer at the request of the department.

SECTION 148. Sources of funds to secure revenue bonds for tollway projects. (1) Moneys deposited in the Toll Program Fund established under ORS 383.009 are pledged to the payment of tollway project revenue bonds issued under section 147 of this 2021 Act.

(2) The Department of Transportation, with the approval of the State Treasurer, may designate in any revenue declaration or indenture prepared under section 150 of this 2021 Act additional revenues as security for the payment of tollway project revenue bonds. The department shall set the order of priority for the additional revenues used. Additional revenues may include:

(a) Moneys under ORS 367.605, which are pledged to payment of Highway User Tax Bonds issued under ORS 367.615, on a parity of lien or on a subordinate and junior basis;

(b) Moneys received by the department from the United States government; or

(c) Any other moneys legally available to the department.

(3) The lien or charge of any pledge of moneys in the Toll Program Fund to secure bonds designated as tollway project revenue bonds under section 147 of this 2021 Act is superior or prior to any other lien or charge and to any law of the state requiring the department to spend moneys for tollway project revenue projects. As long as any tollway project revenue bonds issued under section 147 of this 2021 Act are outstanding, moneys deposited to the Toll Program Fund shall be applied first to the payment of principal of, and interest on, any bonds designated as tollway project revenue bonds under section 147 of this 2021 Act and then to any other purposes described under ORS 383.009.

SECTION 149. Collection and use of federal transportation funds. (1) If allowed by federal law, the Department of Transportation may use federal transportation funds for the following purposes:

(a) For deposit into one or more special funds or accounts that may be pledged to secure payment of the tollway project revenue bonds issued under section 147 of this 2021 Act.

(b) For payment of the costs of tollway projects.

(c) For reimbursement to the department of moneys previously spent on tollway projects.

(2) The department may request the United States government to deposit federal transportation funds directly with a trustee for the holders of tollway project revenue bonds to secure payment of the bonds.

SECTION 150. Revenue declaration or indenture; contents; purpose. (1) Before tollway project revenue bonds are issued under section 147 of this 2021 Act, the Department of Transportation must prepare a revenue declaration or indenture authorizing issuance of the bonds. The revenue declaration or indenture must be signed by the Director of Transportation or a person designated by the director and must be approved by the State Treasurer or a person designated by the State Treasurer.

(2) A revenue declaration or indenture prepared under this section may do any of the following:

(a) Pledge any part or all of moneys described under section 148 of this 2021 Act for purposes of the bonds to be issued.

(b) Limit the purpose for which the proceeds of the sale may be applied by the department.

(c) Make pledges concerning the proceeds of the sale or moneys described under section 148 of this 2021 Act as necessary to secure payment of bonds of the department.

(d) Limit or establish terms upon which additional bonds or refunding bonds may be issued under section 147 of this 2021 Act.

(e) Provide for procedures, if any, by which the terms of contracts with bondholders may be amended or rescinded, for the percentage of the bondholders that must consent to amendment or rescission of the contract and for the manner of bondholder consent to any amendment or rescission of the contract.

(f) Establish a trustee and vest the trustee with property, rights, powers and duties in trust, as the State Treasurer determines appropriate.

(g) Provide for other matters affecting the issuance of bonds.

(h) Provide for a debt service reserve pursuant to ORS 286A.025 (6).

(i) Provide for certain covenants pursuant to ORS 286A.025 (4)(c) and ORS 286A.102 (10).

SECTION 151. Reserve account. (1) The Department of Transportation may establish one or more separate reserve accounts within, or separate and distinct from, the Toll Program Fund in connection with the issuance of tollway project revenue bonds issued under section 147 of this 2021 Act.

(2) The moneys held in any account established under this section may be subject to the provisions of any revenue declaration or indenture prepared under section 150 of this 2021 Act.

SECTION 152. Bond form, issuance and maturity; provisions subject to determination of State Treasurer. (1) A tollway project revenue bond issued under section 147 of this 2021 Act:

(a) Must contain on its face a statement that the ad valorem taxing power of this state is not pledged to the payment of the principal or the interest on the bond.

(b) Shall be issued as provided in ORS chapter 286A.

(c) Must mature on or before a date determined by calculation of the expected economic life of the improvements, assets and projects financed with the proceeds of the bond.

(2) The State Treasurer shall determine, after consultation with the Department of Transportation, all aspects relating to the sale of bonds under section 147 of this 2021 Act that are not otherwise specifically provided in sections 147 to 152 of this 2021 Act.

SECTION 153. ORS 383.006, 383.013, 383.023 and 383.065 are repealed.

FINANCING FOR TOLLWAY PROJECTS

SECTION 154. ORS 367.010 is amended to read:

367.010. As used in this chapter:

(1) "Agency" means any department, agency or commission of the State of Oregon.

(2) "Bond" means [*an evidence of indebtedness*] **a contractual undertaking or an instrument to borrow money** including, but not limited to, a bond, a note, an obligation, a loan agreement, a financing lease, a financing agreement or other similar instrument or agreement.

(3) "Bond debt service" means payment of:

(a) Principal, interest, premium, if any, or purchase price of a bond;

(b) Amounts due to a credit enhancement provider, trustee, paying agent, **commercial paper dealer** or remarketing agent authorized by this chapter;

(c) Amounts necessary to fund bond debt service reserves; and

(d) Amounts due under an agreement for exchange of interest rates if designated by the State Treasurer or the Department of Transportation.

(4) "Credit enhancement" means a credit enhancement device, as defined in ORS 286A.001.

(5) "Financial institution" means a banking institution, a financial institution or a non-Oregon institution, as those terms are defined in ORS 706.008, and any other institution defined by rule of the Oregon Transportation Commission as a financial institution for purposes of ORS 367.010 to 367.067.

(6) "Infrastructure assistance" means any use of moneys in the Oregon Transportation Infrastructure Fund, other than an infrastructure loan, to provide financial assistance for transpor-

tation projects. The term includes, but is not limited to, use of moneys in the infrastructure fund to finance leases, fund reserves, make grants, pay issuance costs or provide credit enhancement or other security for bonds issued by a public entity to finance transportation projects.

(7) "Infrastructure bonds" means bonds authorized by ORS 367.030, 367.555 to 367.600 or 367.605 to 367.665 that are issued to fund infrastructure loans and the proceeds of which are deposited in the infrastructure fund.

(8) "Infrastructure fund" means the Oregon Transportation Infrastructure Fund.

(9) "Infrastructure loan" means a loan of moneys in the infrastructure fund to finance a transportation project.

(10) "Municipality" means a city, county, road district, school district, special district, metropolitan service district, the Port of Portland or an intergovernmental entity organized under ORS 190.010.

(11) "Transportation project" means any project or undertaking that facilitates any mode of transportation within this state. The term includes, but is not limited to, a project for highway, transit, rail and aviation capital infrastructure, bicycle and pedestrian paths, bridges and ways, and other projects that facilitate the transportation of materials, animals or people.

SECTION 155. ORS 367.555 is amended to read:

367.555. (1) The Department of Transportation may request the State Treasurer to issue general obligation bonds of the State of Oregon used to provide funds to defray the costs of building and maintaining permanent roads, including the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges, *in an outstanding principal amount that is subject to the provisions of ORS 286A.035.* **and those portions of a tollway project, as defined in ORS 383.003, that constitute building or maintaining permanent roads.**

(2) The principal amount of any bonds issued under this section is subject to the provisions of ORS 286A.035.

SECTION 156. ORS 367.560 is amended to read:

367.560. All moneys obtained from the sale of general obligation bonds under ORS 367.555 to 367.600 must be paid over to the State Treasurer and credited by the State Treasurer to **either** the State Highway Fund **or the Toll Program Fund**. Such moneys may be used only for the purposes *[stated in ORS 367.555 to 367.600 and, pending the use of such moneys for highway purposes]* **for which the bonds were authorized to be sold and, pending the use of the moneys,** may be invested as provided by law.

SECTION 157. ORS 367.615 is amended to read:

367.615. (1) The Department of Transportation may request the State Treasurer to issue and sell revenue bonds known as Highway User Tax Bonds as provided in this section.

(2) Bonds issued under this section do not constitute a debt or general obligation of this state or any political subdivision of this state but are secured and payable from moneys described under ORS 367.605. A holder of bonds issued under this section may not compel the exercise of the ad valorem taxing power of the state to pay the bond debt service on the bonds.

(3) This state shall provide for the continued assessment, levy, collection and deposit into the highway fund of moneys described under ORS 367.605 in amounts sufficient to pay, when due, the annual bond debt service and other amounts necessary to meet requirements established by indenture under ORS 367.640.

(4) This state may not in any way impair obligations of any agreement between this state and the holders of bonds issued under this section.

(5) The authority granted by this section is continuing and the department reserves the right to request the State Treasurer to issue additional bonds under this section subject to the following:

(a) Additional bonds must be secured equally and ratably by the pledge and appropriation of moneys described under ORS 367.605 unless the State Treasurer, as permitted by law and the contracts with owners of outstanding Highway User Tax Bonds, issues additional bonds in different series and secures each series by a lien on and pledge of moneys described under ORS 367.605 that

is superior to or subordinate to the lien of the pledge securing any other series of Highway User Tax Bonds.

(b) The State Treasurer may only issue additional bonds **under this section** if sufficient moneys described under ORS 367.605 may be pledged to pay the annual bond debt service for all outstanding bonds issued under this section as well as for the additional bonds.

(6) Proceeds from the sale of bonds under this section are declared to be for the purpose of building and maintaining permanent public roads and may be used:

(a) To finance the cost of state highway, county road and city street projects in this state.

(b) To pay the cost of issuing the bonds.

(c) For loans to cities and counties as provided under ORS 367.035 or 367.655.

(d) To pay the bond debt service of the bonds.

(e) To pay the costs of the State Treasurer and the department to administer and maintain the bonds and the Highway User Tax Bond program, including the cost of consultants, advisors, attorneys or other professional service providers appointed, retained or approved by the treasurer or the department.

(f) To pay capitalized interest, principal or premium, if any, of the bonds.

(g) For rebates or penalties due to the United States in connection with the bonds.

(7) The State Treasurer, at the request of the department, may issue Highway User Tax Bonds as capital appreciation bonds, auction rate bonds, variable rate bonds, deep discount bonds or deferred interest bonds.

(8) The State Treasurer or the Director of Transportation, if so directed by the treasurer, may obtain credit enhancement or an agreement for exchange of interest rates to provide additional security or liquidity for the bonds or to provide funding, in lieu of cash, for all or a portion of a bond debt service reserve account established with respect to the bonds.

CONFORMING AMENDMENTS RELATED TO TOLLING

SECTION 158. ORS 367.806 is amended to read:

367.806. (1) As part of the Oregon Innovative Partnerships Program established under ORS 367.804, the Department of Transportation may:

(a) Enter into any agreement or any configuration of agreements relating to transportation projects with any private entity or unit of government or any configuration of private entities and units of government. The subject of agreements entered into under this section may include, but need not be limited to, planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing and operation of transportation projects.

(b) Include in any agreement entered into under this section any financing mechanisms, including but not limited to the imposition and collection of franchise fees or user fees and the development or use of other revenue sources.

(2) As part of the Oregon Innovative Partnerships Program established under ORS 367.804, the department shall enter into agreements to undertake transportation projects the subjects of which include the application of technology standards to determine whether to certify technology, the collection of metered use data, tax processing and account management, as these subjects relate to the operation of a road usage charge system pursuant to ORS 319.883 to 319.946.

(3) The agreements among the public and private sector partners entered into under this section must specify at least the following:

(a) At what point in the transportation project public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) How the partners will share the costs of development of the project;

(d) How the partners will allocate financial responsibility for cost overruns;

(e) The penalties for nonperformance;

(f) The incentives for performance;
(g) The accounting and auditing standards to be used to evaluate work on the project; and
(h) Whether the project is consistent with the plan developed by the Oregon Transportation Commission under ORS 184.617 and any applicable regional transportation plans or local transportation system programs and, if not consistent, how and when the project will become consistent with applicable plans and programs.

(4) The department may, either separately or in combination with any other unit of government, enter into working agreements, coordination agreements or similar implementation agreements to carry out the joint implementation of any transportation project selected under ORS 367.804.

(5) Except for ORS 383.015[, 383.017 (1), (2), (3) and (5)] and 383.019, the provisions of ORS 383.003 to 383.075 apply to any tollway project entered into under ORS 367.800 to 367.824.

(6) The provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C do not apply to concepts or proposals submitted under ORS 367.804, or to agreements entered into under this section, except that if public moneys are used to pay any costs of construction of public works that is part of a project, the provisions of ORS 279C.800 to 279C.870 apply to the public works. In addition, if public moneys are used to pay any costs of construction of public works that is part of a project, the construction contract for the public works must contain provisions that require the payment of workers under the contract in accordance with ORS 279C.540 and 279C.800 to 279C.870.

(7)(a) The department may not enter into an agreement under this section until the agreement is reviewed and approved by the Oregon Transportation Commission.

(b) The department may not enter into, and the commission may not approve, an agreement under this section for the construction of a public improvement as part of a transportation project unless the agreement provides for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project.

(c) Before presenting an agreement to the commission for approval under this subsection, the department must consider whether to implement procedures to promote competition among subcontractors for any subcontracts to be let in connection with the transportation project. As part of its request for approval of the agreement, the department shall report in writing to the commission its conclusions regarding the appropriateness of implementing such procedures.

(8)(a) Except as provided in paragraph (b) of this subsection, documents, communications and information developed, exchanged or compiled in the course of negotiating an agreement with a private entity under this section are exempt from disclosure under ORS 192.311 to 192.478.

(b) The documents, communications or information described in paragraph (a) of this subsection are subject to disclosure under ORS 192.311 to 192.478 when the documents, communications or information are submitted to the commission in connection with its review and approval of a transportation project under subsection (7) of this section.

(9) The terms of a final agreement entered into under this section and the terms of a proposed agreement presented to the commission for review and approval under subsection (7) of this section are subject to disclosure under ORS 192.311 to 192.478.

(10) As used in this section:

(a) "Public improvement" has the meaning given that term in ORS 279A.010.

(b) "Public works" has the meaning given that term in ORS 279C.800.

SECTION 159. ORS 367.816 is amended to read:

367.816. (1) Notwithstanding ORS 367.020, the Department of Transportation may use moneys in the Oregon Transportation Infrastructure Fund established by ORS 367.015 to ensure the repayment of loan guarantees or extensions of credit made to or on behalf of private entities engaged in the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing or operation of any transportation project that is part of the program established under ORS 367.804.

(2) The lien of a pledge made under this section is subordinate to the lien of a pledge securing bonds payable from moneys in the State Highway Fund described in ORS 366.505, the [State Tollway

Account] **Toll Program Fund** established by ORS 383.009 or the State Transportation Enterprise Fund established by ORS 367.810.

SECTION 160. ORS 381.312 is amended to read:

381.312. (1) The Port of Hood River, or any private entity or unit of government that the port designates to operate a bridge in an agreement the port enters into under ORS 381.205 to 381.314, may establish, collect or alter a reasonable toll, administrative fee or civil penalty in connection with the bridge.

(2) The port or the private entity or unit of government that the port designates shall deposit any proceeds from a toll, administrative fee or civil penalty into an account established under an agreement described in ORS 381.310. The port or unit of government shall deposit the share of proceeds that the port or unit of government receives with a depository that meets the requirements set forth in ORS chapter 295. A private entity shall deposit the share of proceeds that the private entity receives with an insured institution, as defined in ORS 706.008.

(3)(a) The Department of Transportation, on behalf of the port, shall:

(A) Assess and collect the amount of a toll that a person fails to pay, plus a civil penalty and administrative fee; and

(B) Refuse to renew the motor vehicle registration of the motor vehicle of a person that failed to pay a toll, a civil penalty or an administrative fee assessed under this subsection.

(b) For the purpose of conducting the activities described in paragraph (a) of this subsection, the department shall:

(A) Treat a toll established in connection with the bridge as a toll that was established under ORS 383.004;

(B) Apply the exemptions set forth in ORS 383.035 [(3)] (5); and

(C) Adopt rules to establish a process by means of which the port, a private entity or a unit of government may request action from the department under this subsection.

SECTION 161. ORS 383.015 is amended to read:

383.015. (1) Tollway projects may be initiated by the Department of Transportation, by a unit of government having an interest in the installation of a tollway, or by a private entity interested in constructing or operating a tollway project. The department shall charge an administrative fee for reviewing and considering any tollway project proposed by a private entity, which the department shall establish by rule. All such administrative fees shall be deposited into the [*State Tollway Account*] **Toll Program Fund**.

(2) The department shall adopt rules pursuant to which it will consider authorization of a tollway project. The rules shall require consideration of:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(b) The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;

(c) The extent to which funding other than state funding is available for the proposed tollway project;

(d) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the [*State Tollway Account*] **Toll Program Fund**;

(e) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:

(A) The relative importance of the proposed tollway project compared to other proposed tollways; and

(B) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and

(f) The effects of tollway implementation on community and local street traffic.

(3) Notwithstanding any other provision of ORS 383.001 to 383.075, no tollway project shall be authorized unless the department finds that either:

(a) Based on the department's estimate of present and future traffic patterns, the revenues generated by the tollway project will be sufficient, after payment of all obligations incurred in connection with the acquisition, construction and operation of such tollway project, to ensure the continued maintenance, repair and reconstruction of the tollway project without the contribution of additional public funds; or

(b) The revenues generated by the tollway project will be at least sufficient to pay its operational expenses and a portion of the costs of its construction, maintenance, repair and reconstruction, and the importance of the tollway project to the welfare or economy of the state is great enough to justify the use of public funding for a portion of its construction, maintenance, repair and reconstruction.

(4) If the department finds that a proposed tollway project qualifies for authorization under this section, the department may conduct or cause to be conducted any environmental, geological or other studies required by law as a condition of construction of the tollway project. The costs of completing the studies for any proposed tollway project may be paid from moneys in the [State Tollway Account] **Toll Program Fund** that are reimbursed from the permanent financing for the project.

REPORT ON EQUITABLE INCOME-BASED TOLL RATES

SECTION 162. (1) As used in this section, "toll" and "tollway" have the meanings given those terms in ORS 383.003.

(2) Before the Department of Transportation assesses a toll, the department shall implement a method for establishing equitable income-based toll rates to be paid by users of tollways.

(3) At least 90 days before the date the Oregon Transportation Commission seeks approval from the Federal Highway Administration to use the income-based toll rates developed under subsection (1) of this section, the department shall prepare and submit a report on the method developed to the Joint Committee on Transportation and the Oregon Transportation Commission. The department may also submit to the Joint Committee on Transportation any recommended legislative changes. The report shall be provided to the Joint Committee on Transportation, in the manner provided under ORS 192.245, on or before September 15, 2022.

SECTION 163. Section 162 of this 2021 Act is repealed on January 2, 2023.

PURCHASES OF MOTOR VEHICLE FUEL BY INDIAN TRIBES

SECTION 164. Section 165 of this 2021 Act is added to and made a part of ORS 319.010 to 319.430.

SECTION 165. (1) As used in this section:

(a) "Indian tribe" means a federally recognized Indian tribe in Oregon.

(b) "Tribal entity" means an entity wholly owned by an Indian tribe.

(c) "Tribal member entity" means an entity wholly owned and operated by an enrolled member of an Indian tribe.

(2) The first sale, use or distribution of motor vehicle fuel in this state is exempt from the license tax imposed under ORS 319.020 (1)(b) if:

(a) The motor vehicle fuel is purchased by an Indian tribe, tribal entity or tribal member entity directly or from a dealer that purchased the motor vehicle fuel in a transaction that would otherwise be subject to the tax; and

(b) The motor vehicle fuel is delivered to a service station that is owned by an Indian tribe, tribal entity or tribal member entity and operated on the respective Indian tribe's reservation or trust land.

(3) In order to be eligible for the exemption under subsection (2) of this section, the Indian tribe must:

(a) Impose a tax on the distribution of the motor vehicle fuel at the same rate as the license tax imposed under ORS 319.020 (1)(b);

(b) Expend the revenue from the tax imposed pursuant to paragraph (a) of this subsection solely for uses that are consistent with the requirements of Article IX, section 3a, of the Oregon Constitution; and

(c) Certify annually to the Department of Transportation that the Indian tribe is in compliance with this subsection.

(4) A dealer described in subsection (2)(a) of this section shall report to the department such sales of motor vehicle fuel to Indian tribes, tribal entities and tribal member entities.

(5) The department shall adopt rules prescribing the processes, forms and information that the forms must include for the certification required under subsection (3)(c) of this section and the reports required under subsection (4) of this section.

SECTION 166. Section 165 of this 2021 Act applies to purchases of motor vehicle fuel made on or after January 1, 2022.

SECTION 167. ORS 319.240 is amended to read:

319.240. (1)(a) The license tax imposed [by] **under** ORS 319.020 may not be imposed on motor vehicle fuel that is exported **from this state to another state, territory or country where the motor vehicle fuel is unloaded** by a dealer[.] **who has a valid motor vehicle fuel dealer's license or its equivalent issued by the state, territory or country to which the fuel is exported and where it is unloaded.**

(b) Except as provided in section 165 of this 2021 Act, paragraph (a) of this subsection does not apply to motor vehicle fuel that is exported from this state to a federally recognized Indian reservation located wholly or partially within the borders of this state.

[(a) From this state to another state, territory or country, not including a federally recognized Indian reservation located wholly or partially within the borders of this state, where the motor vehicle fuel is unloaded; and]

[(b) Who has a valid motor vehicle fuel dealer's license or its equivalent issued by the state, territory or country to which the fuel is exported and where it is unloaded.]

(2) In support of any exemption from license taxes claimed under this section other than in the case of stock transfers or deliveries in equipment, every dealer must execute and file with the Department of Transportation an export certificate in such form as shall be prescribed, prepared and furnished by the department, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the State of Oregon, and giving such details with reference to such shipment as the department may require. All export certificates in support of shipments to other states, territories or countries must be completed and on file in the principal office of the dealer in this state within three months after the close of the calendar month in which the shipments to which they relate are made, unless the state, territory or country of destination would not be prejudiced with respect to its collection of taxes thereon if the certificate is not filed within such time. The department may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The department may, in a case where it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

(3) Any motor vehicle fuel carried from this state in the fuel tank of a motor vehicle shall not be considered as exported from this state, except that a refund of the tax may be paid on such fuel as provided in ORS 319.280 (1)(d).

(4) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export upon which the Oregon tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or shall divert the motor vehicle fuel or any portion thereof, or shall cause it to be diverted from interstate

or foreign transit begun in this state, or shall unlawfully return the motor vehicle fuel or any portion thereof to be used or sold in this state and fail to notify the department and the dealer from whom the motor vehicle fuel was originally purchased of the person's act.

(5) No dealer or other person shall conspire with any person to withhold from export, or divert from interstate or foreign transit begun in this state, or to return motor vehicle fuel to this state for sale or use so as to avoid any of the taxes imposed [by] **under** ORS 319.010 to 319.430.

CAPTIONS

SECTION 168. The unit and section captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

OPERATIVE DATES

SECTION 169. (1) The amendments to ORS 803.525, 803.530, 810.180, 825.400 and 825.402 by sections 18, 19, 81, 126 and 127 of this 2021 Act and the repeal of ORS 825.404 by section 20 of this 2021 Act become operative on January 1, 2022.

(2) Section 103 of this 2021 Act becomes operative on February 7, 2022.

(3) Section 115 of this 2021 Act and the amendments to statutes by sections 104 to 106, 113, 116 to 119 and 122 of this 2021 Act become operative on January 1, 2023.

(4) The Department of Transportation may take any action before the operative dates specified in subsections (1) to (3) of this section that is necessary to enable the department to exercise, on and after the operative dates specified in subsections (1) to (3) of this section, all of the duties, functions and powers conferred on the department by sections 103 and 115 of this 2021 Act, the amendments to statutes by sections 18, 19, 81, 104 to 106, 113, 116 to 119, 122, 126 and 127 of this 2021 Act and the repeal of ORS 825.404 by section 20 of this 2021 Act.

EFFECTIVE DATE

SECTION 170. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 24, 2021

Repassed by House June 26, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 26, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State