



Oregon

Tina Kotek, Governor

Department of Transportation

Director's Office

355 Capitol St. NE, MS 11

Salem, OR 97301

DATE: May 9, 2023

TO: Joint Committee on Transportation

FROM: Lindsay Baker, Assistant Director, Government and External Relations
Oregon Department of Transportation

SUBJECT: HB 2099(-3) – Omnibus Transportation Bill

Dear Co-Chairs Frederick and McLain and members of the Joint Committee on Transportation,

Thank you for the opportunity to provide information regarding ODOT's proposed amendment to HB 2099, the joint committee omnibus bill. ODOT appreciates the Committee's willingness to include various provisions in its omnibus measure at the request of ODOT. The information below outlines the changes requested in the (-3) amendment.

ODOT requested changes for HB 2099(-3)

- ***Section 1: Safe Routes to School.*** ODOT's Safe Routes to School program funds infrastructure improvements and education campaigns to increase the safety, accessibility, and number of students walking, biking, and rolling to school. House Bill 2017 (2017) provided stable, dedicated revenue to support this program. Since the program was established, communities and ODOT have sought ways to improve the program and ensure all students and schools are able to benefit. The proposed changes increase the eligibility radius from one mile from a school to two miles from a school (consistent with federal law), ensure high schools are equally considered with elementary and middle schools, and allow greater flexibility in determining the grant match requirement for an individual project award. The proposed changes seek to ensure communities can put forward the most needed projects to improve bicycle and pedestrian access.
- ***Section 2: Connect Oregon.*** ODOT's Connect Oregon program invests in needed infrastructure improvements for non-highway modes of transportation, specifically marine (port), aviation, and rail projects. House Bill 2017 (2017) provided stable, dedicated revenue to support this program. Current law specifies that a competitive Connect Oregon program will be run if there is \$50 million or more available in the Connect Oregon Fund for the biennium in which the grants are provided. With the necessary passage of time between when applications are solicited, and when applications are approved and begin to be funded (approximately one year) this can overlap into a new biennium. The proposed changes simplify the statutory language around its timing to better reflect the intent to launch a \$50 million program regardless of the timing of cash accrual within a biennium.



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- **Sections 3-5: Use Fuel.** Statute imposes a tax on Use Fuel when the fuel is used in a motor vehicle on the roads, streets, and highways of Oregon. ORS 319.550 requires anyone that uses fuel in a motor vehicle to be licensed with ODOT, unless they meet one of the several exceptions. Under current law, entities who pay their taxes at their supplier at the time of the sale, and government entities who owe no tax are required to file reports with ODOT due to the weight of their vehicles. This results in approximately 500 unnecessary filings a year. The proposed changes eliminate the requirement that certain heavy vehicle users be licensed use fuel users and file tax reports, if the entity pays all taxes to their supplier at the time of the sale. The measure also proposes to update the conversion factors for CNG and Propane and add definitions for LNG and Hydrogen fuels that match the IRS, International Fuel Tax Agreement, and neighboring states definitions.
 - **Section 6: Small City Allotment.** The Small City Allotment program is an annual allocation of state funds for local transportation projects. Incorporated cities with populations of 5,000 or less are eligible to apply. Projects are selected by a competitive process. The proposed changes modify existing statute to match program operation. Specifically, the changes clarify eligible projects, and the evaluation and recommendation process undertaken by the advisory committee.
 - **Sections 7-8: Administration of Federal Drug and Alcohol Clearinghouse.** As part of ODOT's delegated authority to implement federal laws and rules regarding Commercial Driver Licensing/Regulation, Oregon must comply with Federal Motor Carrier Safety Administration requirements or risk having federal highway funds withheld. The proposed changes allow for the implementation of new provisions of the Federal Drug and Alcohol Clearinghouse and allows DMV to deny issuance or withdraw existing commercial driving privileges for individuals in violation of DACH requirements.
 - **Section 9: Non-DMV Skills Test Providers.** Third Party Non-Commercial testing businesses that administer competency testing for non-commercial motor vehicle drivers (i.e., conduct behind-the-wheel skills tests) are regulated by ODOT-DMV. The measure proposes to establish rulemaking authority for DMV to adopt rules allowing for DMV to take administrative action when a business or examiner fails to comply with requirements. Without these changes, DMV has limited ability to take contractual action against businesses that do not follow agreements or program requirements.
 - **Sections 10 - 12: Emergency, Special Student, and Temporary Driver Permits.** ODOT-DMV issues several types of driver permits including emergency permits, special student driver permits, and temporary driver permits. The measure adds language for various DMV-issued driver permits that clarifies the types of permits and applicable requirements for issuance. The measure allows DMV to accept approval from the sheriff of the county in which the applicant resides through other mediums rather than a wet signature on a paper application form. This change is needed so DMV can modernize the current paper-dependent process to align with electronic applications and signatures. The measure also proposes to grant DMV rulemaking authority to limit issuance of temporary driver permits for commercial driving privileges to comply with federal regulations.
 - **Sections 13-14: Driving Privilege Conforming Amendments:** The measure proposes conforming amendments to clarify that convictions occurring in other states will result in a lifetime commercial



driving privilege suspension, when the conviction would result in a lifetime commercial driving privilege suspension if it occurred in Oregon. The measure also clarifies that suspensions occurring under ORS 809.520 run consecutively and removes a reference in the school bus endorsement section.

- **Section 15: Weighmaster/Motor Carrier Enforcement Officer Authority.** Motor carrier enforcement officers or weighmasters have a long-standing practice of representing themselves in traffic court hearings. ODOT was recently advised by the Department of Justice that statutory clarity was needed to maintain this practice. The proposed language clarifies that as part of their duties, a weighmaster or motor carrier enforcement officer can perform the functions of a peace officer described in ORS 153.083.
- **Sections 16-19: Vehicle Dealer Regulation.** Oregon vehicle dealers are regulated by ODOT-DMV with the Business Licensing Unit issuing business certificates (licenses) to dealers and the Dealer Investigations Unit checking for compliance, reviewing complaints, providing training, and investigating business operations. The measure proposes to modify sections of statute by defining normal business hours in statute as DMV's normal business hours and granting DMV the ability to deny/suspend a dealer certificate if the applicant/dealer is determined not to be a vehicle dealer. The measure also provides DMV the ability to suspend a dealer certificate or refuse certificate renewal/issuance of a new certificate if the dealership owner is in default on payments of an outstanding civil penalty.
- **Section 20-22: Plate Issuance.** Plate issuance is a core business function for ODOT-DMV, necessitating occasional statutory clean up and rulemaking authority. For example, plates with surcharges benefitting certain groups should not be eligible for permanent registration, which removes revenue from those groups. The measure proposes to provide DMV rulemaking authority to determine which license plates are eligible for special interest (permanent) registration and which plate types are eligible for purchase as duplicate plates. The measure also proposes to make needed changes for vehicle plate owners to be able to transfer their plate to another vehicle without the requirement that the plate be converted to a custom plate type.
- **Section 23: Vehicle Identification Numbers Inspection.** Many law enforcement agencies have offered to perform VIN inspections on behalf of ODOT-DMV without compensation in order to provide additional customer service to Oregonians. Unfortunately, ODOT-DMV does not have authority to delegate this function to a law enforcement agency in absence of unique agreements for each agency. The proposed changes enable ODOT-DMV to broadly designate who may perform a VIN inspection, including law enforcement agencies.
- **Sections 24-24a: Repeal Voluntary Odometer Disclosure.** Oregon must comply with federal odometer disclosure requirements. The concept proposes to repeal 803.122(6), which allowed voluntary odometer disclosure for certain vehicles, and is needed for Oregon to comply with newer federal odometer disclosure requirements. This change will also eliminate redundancy in the voluntary odometer rule, resulting in increased efficiency and staff savings.



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- **Section 25-29: Commercial Driver Training Schools.** Businesses and organizations must be certified by ODOT-DMV and obtain a Commercial Driving Training School Certificate before operating a school that teaches people how to drive. This measure proposes several changes to the Commercial Driver Training School program to ensure availability of driving schools and quality of driving education provided. Changes include repealing sections of statute relating to the issuance of commercial driver training school certificates and driver training instructor certificates, and providing DMV new rule authority for program administration, application requirements, conditions for certification sanctions, fees, and related matters that DMV determines are necessary. The measure also changes the renewal cycle for Commercial Driver Training Schools to a biennial cycle and allows DMV to specify program requirements by rule. These changes make the application process less administratively burdensome and allow for appropriate action to be taken when program violations occur.
 - **Sections 30-33: Vehicle Transporters.** The American Association of Motor Vehicle Administrators (AAMVA) recently published best practices on the use of transporter plates. Transporter plates are typically used by vehicle dealers and vehicle delivery services to place valid registration on a transporter vehicle that does not have a license plate. The proposed changes align Oregon statute with the best practices established AAMVA by ending transporter plate reciprocity and amending the transporter certificate cycle from 1 year to 3 years. Extending the validity of the certificate will stagger the annual workload and a 3-year renewal cycle aligns the certificate (licensing) with vehicle dealer, dismantler, and salvage vehicle appraiser renewal cycles.
 - **Section 34: Defines Qualified Provider of Certain DMV Services.** Public entities, other than ODOT-DMV, have expressed interest in offering knowledge and skills test for driver license and permit applications. Unfortunately, these entities would be subject to the statutory fees for the tests (\$9 for a skills test), leaving them unable to recover their operating expenses. The proposed changes clarify that ODOT can enter into intergovernmental agreements with public providers for the purpose of providing drive tests *and* allows these entities to charge reasonable fees for providing these services. The measure defines “qualified provider” to perform DMV vehicle-related transactions, and driver knowledge and skills testing. These changes allow businesses to charge the necessary fees to recover operating costs, positioning DMV to add more noncommercial testing businesses to the program and better meet customer needs.
 - **Section 35: Removal of Personal Property on Highway Right of Way.** In 2018, the Legislature passed House Bill 4054, allowing ODOT to enter into an intergovernmental agreement (IGA) with the City of Portland for the removal of personal property on state highway right of way. Since that time the City of Portland and ODOT have operated under an agreement whereby ODOT pays the City \$4 million each biennium to manage personal property removal on state highway right of way within city limits. House Bill 4054 was initially established as a pilot program, sunseting on January 2, 2023. The proposed changes codify the provisions established through HB 4054 (2018), allowing the IGA to continue; the proposed changes also align the notice timelines for personal property removal across the city.



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- **Section 36: Motor Carrier Flat Fee.** Oregon's Weight-Mile Tax system collects taxes from heavy carriers based on their declared weight and the distance driven on public roads in Oregon. Three specific types of carriers are exempt from this Weight-Mile Tax system in lieu of paying a flat fee: sand and gravel, wood chip, and logs. Statute requires ODOT to review the flat fee rates established in ORS 825.480 each even-numbered year to ensure revenue neutrality for the State and taxpayers and recommend any rate adjustments, as necessary. Recent studies have consistently shown the sand and gravel carriers are underpaying and the most recent study (November 2022) demonstrated that sand and gravel carriers are underpaying owed taxes by over 40%. The proposed changes in this measure increase the sand and gravel flat fee rate to \$19.52/100 pounds to align with cost responsibility; this rate would be effective January 1, 2024.
 - **Sections 37-55: Confirming Amendments, General Repeals, Operative Dates and Captions.**

ODOT appreciates the Committee's consideration of the (-3) amendment. Please reach out with additional questions. Thank you.