

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE

Department of Transportation, Driver and Motor Vehicle Services Division

Agency and Division

Administrative Rules Chapter Number

735

Lauri Kunze

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Rules Coordinator

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Address

RULE CAPTION

Driving Privileges - Application, Testing, Qualifications, Restrictions and Relating Provisions for Commercial and Non-Commercial Privileges

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
8-17-16	10:00 a.m.	DMV Headquarters, Rm 122; 1905 Lana Ave NE; Salem OR	Liz Woods

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

735-062-0001, 735-062-0085, 735-063-0200, 735-063-0250, 735-063-0260, 735-063-0270, 735-063-0280, 735-063-0300, 735-063-0370

AMEND:

735-010-0030, 735-016-0060, 735-016-0070, 735-062-0002, 735-062-0005, 735-062-0007, 735-062-0016, 735-062-0030, 735-062-0032, 735-062-0070, 735-062-0080, 735-062-0090, 735-062-0110, 735-062-0125, 735-062-0300, 735-062-0310, 735-062-0330, 735-064-0220, 735-064-0230, 735-064-0235

REPEAL:

735-062-0075, 735-062-0150, 735-062-0200

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

735-062-0190 to 735-063-0290, 735-062-0210 to 735-063-0310, 735-063-0000 to 735-063-0205, 735-063-0050 to 735-063-0210, 735-063-0060 to 735-063-0220, 735-063-0065 to 735-063-0230, 735-063-0070 to 735-063-0240, 735-070-0185 to 735-063-0320, 735-070-0190 to 735-063-0330, 735-063-0067 to 735-063-0340, 735-063-0075 to 735-063-0350, 735-063-0130 to 735-063-0360, 735-063-0180 to 735-063-0380

Statutory Authority:

ORS 184.616, 184.619, 192.440, 802.010, 802.012, 802.179, 802.183, 802.200, 802.210, 802.220, 802.230, 802.540, 803.350, 803.370, 807.021, 807.022, 807.024, 807.040, 807.045, 807.050, 807.060, 807.062, 807.070, 807.072, 807.080, 807.100, 807.110, 807.120, 807.130, 807.150, 807.160, 807.170, 807.173, 807.220, 807.230, 807.310, 807.368, 807.400, 809.310, 809.415, 809.419, 809.480, 809.520, 809.525, 809.605, 821.080

Other Authority:

49 CFR secs. 381.300-381.330, 383.51, 383.71, 383.110-383.123, 383.131-383.135, 391.41-391.49 and 49 USC sec. 5103a

Statutes Implemented:

ORS 746.265, 801.163, 802.012, 802.200, 802.220, 802.230, 802.500, 802.520, 802.540, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.018, 807.021, 807.022, 807.024, 807.031, 807.035, 807.040, 807.045, 807.050, 807.060, 807.062, 807.066, 807.070, 807.072, 807.080, 807.100, 807.110, 807.120, 807.130, 807.150, 807.160, 807.170, 807.173, 807.220, 807.230, 807.240, 807.270, 807.280, 807.285, 807.310, 807.350, 807.355, 807.359, 807.363, 807.368, 807.369, 807.400, 809.135, 809.310, 809.360, 809.380, 809.400, 809.411, 809.415, 809.419, 809.430, 809.480, 809.510-809.545, 809.600(2), 809.605, 821.080, 825.410, 825.412, 825.415, 825.418, 826.033

RULE SUMMARY

Effective September 26, 2016, DMV will issue a Commercial Learner Permit (CLP) in accordance with ORS 807.285 and 49 CFR 384.204.

The eligibility requirements, qualifications, testing procedures, endorsements and restrictions to be issued a CLP or commercial driver license (CDL) are different than those necessary to be issued a Class C non-commercial instruction permit, driver license, driver permit or identification card. Therefore, this rulemaking attempts to clearly delineate those differences by separating provisions of administrative rules that are specific to commercial driving privileges and consolidate them into OAR chapter 735, division 63, and removing provisions specific to commercial driving privileges from chapter 735, division 62. The proposed expanded OAR chapter 735, division 63, also includes details regarding violations committed when operating a commercial motor vehicle or holding commercial driving privileges, sanctions, and options to regain commercial driving privileges. Once a person is issued a CLP, that person has commercial driving privileges and is subject to the various provisions of having commercial driving privileges the same as a person who has a CDL. Therefore, one of the amendments proposed in this rulemaking is to use the terminology "commercial driving privileges" consistently throughout these rules.

The following rules are repealed, amended, or renumbered and amended simply to conform with the purposes described above: The proposed rules to be repealed: OAR 735-062-0075, 735-062-0150, and 735-062-0200. The proposed amendment of: OAR 735-010-0030, 735-062-0002, 735-062-0005, 735-062-0007, 735-062-0032, 735-062-0070, 735-062-0080, 735-062-0090, 735-062-0110, 735-062-0125, 735-064-0220, 735-064-0230 and 735-064-0235. The proposed renumbering and amendment of: 735-062-0190 to 735-063-0290; 735-062-0210 to 735-063-0310; 735-070-0185 to 735-063-0320 and 735-070-0190 to 735-063-0330.

The following rules are renumbered in a logical order and amended to conform with other rule changes as OAR Chapter 735, Division 63 was expanded: 735-063-0000 to 735-063-0205, 735-063-0050 to 735-063-0210, 735-063-0060 to 735-063-0220 and 735-063-0065 to 735-063-0230; 735-063-0067 to 735-063-0340; 735-063-0130 to 735-063-0360; and 735-063-0180 to 735-063-0380.

Specific proposed changes to rules include:

Proposed adoption of OAR 735-062-0001 and 735-063-0200 - These two rules outline the purpose to their specific rule divisions, explaining the distinction between non-commercial and commercial driving privileges. OAR 735-063-0200 further establishes which rule provisions in OAR chapter 735, division 62 (such as renewal), apply to commercial driving privileges.

Proposed adoption of OAR 735-063-0250 establishes the knowledge testing and issuance requirements for a CLP.

Proposed adoption of OAR 735-063-0260 establishes the testing and issuance requirements for a CDL.

Proposed adoption of OAR 735-063-0270 establishes when DMV will accept CDL skills tests scores if a person with an Oregon CLP trains and tests out of state.

Proposed adoption of OAR 735-063-0280 captures the process previously outlined in OAR 735-062-0080 regarding waiving the CDL skills test for an applicant who gained experience driving commercial motor vehicles while in the military, when certain criteria are met.

Proposed adoption of 735-063-0300 establishes the restrictions that DMV may place on commercial driving privileges. This rule combines restrictions currently listed in OAR 735-063-0067 and 735-062-0150 with restrictions not previously delineated in rule.

This rulemaking also takes the opportunity to make small amendments to other rules that DMV has identified as follows:

Proposed amendments to OAR 735-016-0060 and 735-016-0070 conform rule language to current DMV practice regarding residency/domicile issues.

Proposed amendment to OAR 735-062-0016 authorizing DMV to make a copy of the document(s) a person presents when trying to prove his or her identity, allows DMV to thoroughly review the document(s) and complete any additional research needed to determine the identity of the person for whom DMV could not establish during the biometric check.

Proposed amendment to OAR 735-062-0030 clarifies what DMV may accept as proof of residence address and relates to the proposed changes in OAR 735-016-0060 and 735-016-0070.

Proposed adoption of OAR 735-062-~~0085~~ establishes in rule restrictions that DMV may place on a non-commercial Class C driver license or driver permit.

0087 SK 7/27/10

Proposed amendment of OAR 735-062-0300 and 735-062-0310 is to update a reference to Oregon law that has since been codified and to correct a reference to a range of rule numbers.

Proposed amendment of OAR 735-062-0330 is to allow a person who is experienced in driving with the use of bioptic telescopic lens in another state to qualify in Oregon by taking less than the same amount of training as a driver who has never driven using the device.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

08-22-2016 8:30 a.m.	Lauri Kunze	lauri.g.kunze@odot.state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
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Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

087 JK 7/27/16

the adoption of 735-062-0001, 735-062-0065, 735-063-0200, 735-063-0250, 735-063-0260, 735-063-0270, 735-063-0280, 735-063-0300, 735-063-0370; the amendment of 735-010-0030, 735-016-0060, 735-016-0070, 735-062-0002, 735-062-0005, 735-062-0007, 735-062-0016, 735-062-0030, 735-062-0032, 735-062-0070, 735-062-0080, 735-062-0090, 735-062-0110, 735-062-0125, 735-062-0300, 735-062-0310, 735-062-0330, 735-064-0220, 735-064-0230, 735-064-0235; the repeal of 735-062-0075, 735-062-0150, 735-062-0200; and the amendment and renumbering of 735-062-0190 to 735-063-0290, 735-062-0210 to 735-063-0310, 735-063-0000 to 735-063-0205, 735-063-0050 to 735-063-0060 to 735-063-0220, 735-063-0065 to 735-063-0230, 735-063-0070 to 735-063-0240, 735-070-0185 to 735-063-0320, 735-070-0190 to 735-063-0330, 735-063-0067 to 735-063-0340, 735-063-0075 to 735-063-0350, 735-063-0130 to 735-063-0360, 735-063-0180 to 735-063-0380

Statutory Authority:

ORS 184.616, 184.619, 192.440, 802.010, 802.012, 802.179, 802.183, 802.200, 802.210, 802.220, 802.230, 802.540, 803.350, 803.370, 807.021, 807.022, 807.024, 807.040, 807.045, 807.050, 807.060, 807.062, 807.070, 807.072, 807.080, 807.100, 807.110, 807.120, 807.130, 807.150, 807.160, 807.170, 807.173, 807.220, 807.230, 807.310, 807.368, 807.400, 809.310, 809.415, 809.419, 809.480, 809.520, 809.525, 809.605, 821.080

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Need for the Rule(s):

Effective September 26, 2016, DMV will issue a Commercial Learner Permit (CLP) in accordance with ORS 807.285 and 49 CFR 384.204. The eligibility requirements, qualifications, testing procedures, endorsements and restrictions to be issued a CLP or commercial driver license (CDL) are different than those necessary to be issued a Class C non-commercial instruction permit, driver license, driver permit or identification card. Therefore, this rulemaking attempts to clearly delineate those differences by separating provisions of administrative rules that are specific to commercial driving privileges and consolidate them into OAR chapter 735, division 63, and removing provisions specific to commercial driving privileges from chapter 735, division 62. The proposed expanded OAR chapter 735, division 63, also includes details regarding violations committed when operating a commercial motor vehicle or holding commercial driving privileges, sanctions, and options to regain commercial driving privileges. Once a person is issued a CLP, that person has commercial driving privileges and is subject to the various provisions of having commercial driving privileges the same as a person who has a CDL. Therefore, one of the amendments proposed in this rulemaking is to use the terminology "commercial driving privileges" consistently throughout these rules.

Documents Relied Upon, and where they are available:

None

Fiscal and Economic Impact:

See statements below.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

None as this rulemaking is implementing changes that are required by changes in Oregon law.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

None - The impact of the changes to the requirements for commercial driving privileges that may impact trucking companies or others employing holders of commercial driving privileges are a result of changes to Oregon law rather than these rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None

c. Equipment, supplies, labor and increased administration required for compliance:

None

How were small businesses involved in the development of this rule?

Fourteen groups representing small businesses were notified of the proposed amendments and invited to comment. No comments were received.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

This rulemaking, while extensive, is not one in which DMV establishes a program by administrative rule. Rather, it implements current law and many of the changes were made to better organize rules for ease of the reader. Thus, DMV had no policy issues to decide in which a rule advisory committee may have been helpful.

<u>08-22-2016 8:30 a.m.</u>	<u>Lauri Kunze</u>	<u>lauri.g.kunze@odot.state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address