

Department of Transportation
Administrative Rules Annual Report
HB 4106 (2016 Session)

Chapter 731

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	0
Repealed	8

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Transportation, Public Transit Division Chapter 732

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	0
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	2
Amended	12
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Transportation, Driver and Motor Vehicle Services Division

Administrative Rules Annual Report Chapter 735 HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	8
Amended	65
Repealed	3

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	3
Amended	8
Suspended	0

DMV 5-2021 Filed: 03/11/2021 3:49 PM

735-046-0010 Amend

735-046-0030 Amend

Statement of Need

Currently, DMV allows customers with customized registration plates 30 days after the expiration date of the registration plate to renew the registration before DMV makes the configuration available to the public for application ("30 day grace period.") Once DMV makes the plate configuration available, it no longer "belongs" to the customer who failed to apply before the end of the registration period or during the 30 day grace period. The result is that any customer can apply for, and be issued, the plate configuration. This process and 30 day grace period worked well for DMV in the past, but issues have arisen due to COVID -19, the moratorium granted to customers by the legislature and, more recently, by an agreement between DMV and law enforcement. The moratorium allows customers to continue to operate their vehicles with the expired registration plates after the expiration date of the registration without fear of receiving a ticket. The 30 day grace period DMV offers to customers with custom registration plates is not aligned with the moratorium in place.

Customers with custom registration plates who are utilizing the moratorium requirements might exceed the 30 day grace period. Customers likely do not want to lose their custom plate configurations and may believe the moratorium also protects their custom configuration.

To alleviate the issue DMV is proposing to extend the grace period to 180 days. The extended grace period means customers seeking a custom plate configuration will not be able to apply for a previously assigned custom plate configuration until the 180 day grace period has passed, instead of the current 30 day grace period. DMV believes the 180 day grace period is sufficient time for customers to renew their registrations and custom plate configurations even during the moratorium and DMV's extended processing timelines due to the pandemic.

To make this change, DMV must amend OAR 735-046-0010 and 735-046-0030. The amendment will simply remove "30" and replace it with "180."

Justification

If DMV does not extend the 30 day grace period to 180 days, two vehicles can be issued the same custom registration plate configuration and both can legally be on the road at the same time. Although the moratorium allows the first customer to drive with expired registration, the custom plate configuration has been reassigned to another vehicle without notice. DMV believes this scenario creates negative outcomes for both customers, and creates a serious prejudice. Anyone operating one of the two vehicles, not just the owners of the vehicles, could be pulled over by law enforcement. Law enforcement may not look into the situation far enough to realize that there are two vehicles with the same registration plate. Law enforcement may think that the person in front of them stole the registration plates from the other vehicle and may detain the person, or seize the plates and cause the vehicle to be towed and impounded. Another possible scenario is that law enforcement may think fraud has occurred. Either scenario could result in law enforcement seizing the registration plates, towing the vehicle, or other unnecessary negative outcomes for the driver, law enforcement or DMV resulting from the same registration plate configuration inadvertently being issued to two different vehicles.

DMV finds that the agency's failure to act promptly will result in serious prejudice to the public interest and the agency's interest due to the examples given in the preceding paragraph.

DMV 6-2021	Filed: 03/11/2021 3:50 PM
735-018-0170	Adopt
735-062-0060	Amend
735-062-0125	Amend

Statement of Need

DMV needs to adopt OAR 735-018-0170 and amend OAR 735-062-0060 and 735-062-0125 to allow DMV to renew driver licenses, driver permits and identification cards using DMV's website at every other renewal, and to provide the qualifications customers must meet in order to use the online renewal method. In addition, for the two years following approval of this rule, customers 50 years old and older will no longer need to take a vision screening if they renew their driver license or driver permit using the online renewal option.

Fewer customers will need to visit a DMV field office if the proposed method of online renewal issuances is implemented, which will open up more appointments for other customers: those who need to visit a DMV office for services DMV does not offer on its website, who do not have internet access, or who prefer to not do business on-line.

Justification

The COVID-19 pandemic resulted in DMV closing its doors to the public for several weeks. After the closure, DMV resumed services at a reduced rate. The resulting backlog has had a major effect on customers' ability to visit a DMV office in a timely manner, resulting in serious prejudice to customers. As a result of this known serious prejudice, DMV initiated a project to enable the most customers possible to renew using the online method. Programming must be completed before DMV has the ability to offer this service.

The programming to enable customers to renew the customer's driver license, driver permit, and identification cards online will be completed by May 1, 2021. DMV is unable to adopt a permanent rule before the programming is complete and, to address the backlog, DMV must have these rules in place to begin online renewals immediately upon completion of programming. This new renewal method will enable more customers to renew their driver license during a single day, thus reducing the backlog and reducing the serious prejudice.

There is an estimated driver transaction backlog of 250,000 transactions. DMV believes roughly 125,000, or half, of

those transactions are renewals. There is no limit to the number of online renewal transactions that DMV can process in one day.

This rulemaking has a significant additional benefit: All customers who renew using the online method open up appointments for other customers whose transactions cannot be completed online, who do not have internet access, or who prefer to not do their business over the internet.

DMV 8-2021

Filed: 05/14/2021 12:52 PM

735-063-0220

Amend

Statement of Need

This rule action amends OAR 735-063-0220 to restore the requirement for all CDL-required excepted interstate and non-excepted intrastate commercial motor vehicle (CMV) operators to provide proof of medical qualification to DMV.

Ordinarily, the Federal Motor Carrier Safety Administration (FMCSA) requires CDL-required non-excepted interstate CMV operators to maintain medical qualification in accordance with regulations codified at 49 Code of Federal Regulations (CFR) Parts 383 and 391. In addition, DMV administrative rule reflects this requirement and requires CDL-required excepted interstate and non-excepted intrastate CMV operators to maintain medical qualification under rules comparable to those promulgated by FMCSA for CDL-required non-excepted interstate CMV operators. However, on March 24, 2020, FMCSA relaxed some of their requirements due to the COVID-19 pandemic by issuing a waiver entitled, "Waiver in Response to the COVID-19 Emergency – for State, CDL Holders, CLP Holders, and Interstate Drivers Operating Commercial Motor Vehicles" (FMCSA waiver). The waiver provided for CDL-required non-excepted interstate CMV operators to retain medical qualification based on prior medical qualification acquired on or after March 1, 2020, until June 30, 2020. In order to qualify under the FMCSA waiver, individuals had to have maintained medical qualification based on proof of medical qualification issued for a period of 90 days or longer. FMCSA has since reissued the waiver multiple times, effective July 1, 2020, October 1, 2020, and January 1, 2021. During these reissuances, FMCSA began to discontinue the waiver for individuals whose medical qualification expired before certain dates (e.g. ending continued medical qualification for individuals whose proof of medical qualification expired before June 1, 2020). Finally, FMCSA reissued the waiver on February 16, 2021, (effective March 1, 2021) and indicated in an affiliated document (Expansion and Extension of the Modified Emergency Declaration (February 17, 2021)) that FMCSA intends to "wind down" the waivers.

The FMCSA waiver mentioned above did not apply to CDL-required excepted interstate and non-excepted intrastate CMV operators because such individuals are only required to maintain medical qualification by Oregon administrative rule. Initially, DMV promulgated a temporary rule providing that DMV would refrain from cancelling the commercial driving privilege of CDL-required excepted interstate and non-excepted intrastate CMV operators on equivalent terms to the FMCSA waiver for CDL-required non-excepted interstate CMV operators. DMV's temporary rulemaking expired on November 22, 2020. Subsequently, DMV amended OAR 735-063-0220 on a permanent basis in order to provide specifically for CDL-required excepted interstate and non-excepted intrastate CMV operators to maintain medical qualification under terms equivalent to those specified by the FMCSA waiver for CDL-required non-excepted CMV operators. DMV provided for continued medical qualification because DMV could not know when FMCSA would discontinue the waiver for non-excepted interstate CMV operators. In order to minimize complexity, DMV did not mirror FMCSA's discontinuation of medical qualification based on expiration dates of proofs of medical qualification for excepted interstate and non-excepted intrastate CMV operators.

While conducting DMV's prior permanent rulemaking, DMV announced its intention to promulgate a temporary rule

suspending the continued medical qualification provided by OAR 735-063-0220(6) once FMCSA ceased to reissue the waiver. As noted above, FMCSA has indicated intent to discontinue the waiver. Consequently, DMV is now promulgating a temporary rule in order to suspend OAR 735-063-0220(6) and restore DMV's prior medical qualification requirements. DMV intends to conduct a future permanent rulemaking in order to remove OAR 735-063-0220(6) in full.

Pursuant to OAR 735-063-0340, DMV will begin cancellation of commercial driving privileges after the effective date of this rulemaking for all CDL-required excepted interstate and non-excepted intrastate individuals with expired proofs of medical qualification. DMV advises all CDL-required CMV operators with expired proofs of medical qualification to submit new proofs of medical qualification to DMV as soon as possible in order to avoid cancellation of commercial driving privileges.

Justification

DMV finds that failure to act promptly through this temporary rulemaking will result in serious prejudice to the public interest through diminishing the level of highway safety. DMV requires CDL-required excepted interstate and non-excepted intrastate CMV operators to maintain medical qualification based on a periodic examination by a medical examiner. This medical qualification process detects new or worsened health problems that may impair safe operation of a CMV. DMV's cancellation of the commercial driving privileges of individuals who lack medical qualification ensures that such individuals may not lawfully operate CMVs. DMV considers that the risk to highway safety increases substantially the longer that DMV permits individuals to operate CMVs based on expired proofs of medical qualification. DMV has determined that the resultant risk of serious prejudice to the public interest requires this temporary rulemaking in order to restore medical qualification requirements more quickly than the permanent rulemaking process would permit.

In addition, DMV's action is consistent with DMV's previously announced intent to provide a waiver for the continued medical qualification for CDL-required excepted interstate and non-excepted intrastate CMV operators for the shortest period consistent with the FMCSA waiver. DMV's prompt action in this matter matches the Legislative Assembly's intention "[t]o provide maximum safety for all persons who travel or otherwise use the public highways of this state" as described in ORS 801.020(11)(a).

DMV 17-2021

Filed: 09/13/2021 6:08 PM

735-030-0125

Adopt

Statement of Need

Section 93 of HB 3055 (Oregon Laws 2021, chapter XXX) requires DMV to establish by rule the circumstances in which a person who is removed from the road usage charge (RUC) program is required to pay an additional amount that would have otherwise been due with respect to the subject vehicle. The additional fee can be a portion of or equal to the amount of the fee previously waived.

This rulemaking establishes the circumstances in which a person is required to pay the fee in the new law. Every owner of a subject vehicle that is removed from the RUC program will be required to pay the additional fees listed in ORS 803.422 unless:

- All owners of the subject vehicle listed in DMV records are deceased;
- All registered owners have moved and titled or registered the vehicle in another jurisdiction;
- The vehicle is totaled as defined in ORS 801.527; or
- The vehicle is stolen and not recovered at the time of removal from the RUC program.

Justification

Section 93 of HB 3055 (Oregon laws 2021, chapter XXX) has an effective date of September 25, 2021. Governor Kate Brown signed the bill into law on July 27, 2021. DMV does not have time to go through the permanent rulemaking process and have the rules in effect by the effective date. Vehicle owners who enroll in RUC do not pay the additional registration fee listed in ORS 803.422. If temporary rules are not filed, the State Highway Fund will lose revenue because owners of vehicles removed from the RUC program will pay neither RUC fees nor the additional vehicle registration fees waived through RUC enrollment.

DMV 21-2021	Filed: 09/13/2021 6:10 PM
735-022-0140	Amend
735-022-0160	Adopt

Statement of Need

Oregon Laws 2021, chapter 157, amended ORS 803.036 to authorize DMV to issue Oregon vehicle titles to vehicles that no longer meet the definition of park model recreational vehicle (PMRV) if they met the definition of PMRV when originally manufactured and were used as living quarters on or before January 1, 2021. The law also prohibits DMV from issuing vehicle registration to these vehicles.

DMV needs to adopt OAR 735-022-0160 to list the requirements that must be met in order for DMV to issue an Oregon vehicle title to an applicant wanting to title their former PMRV. An applicant for an Oregon title described this rule is required to submit a certification that the former PMRV was originally constructed in compliance with the version of ANSI A119.5 that was in effect at the time of manufacture unless DMV issued an Oregon title on or after September 1, 2021, the effective date of Oregon Laws 2021, chapter 157, although the effective date of this rule is September 7, 2021.

DMV also needs to amend OAR 735-022-0140 to include the definition of "former PMRV." DMV is defining "former PMRV" as a vehicle that was originally manufactured as a PMRV, but no longer meets the definition of PMRV and was first used as living quarters on or before January 1, 2021.

Justification

Oregon Laws 2021, chapter 157, section (3), states that the Act was necessary for the immediate preservation of the public peace, health and safety, and an emergency was declared to exist, and as a result the Act took effect on its passage, June 3, 2021. Section (2) of the Act provides an operative date of September 1, 2021. DMV does not have sufficient time to go through the permanent rulemaking process before the Act's operative date.

DMV's failure to act promptly may result in serious prejudice to the owners of the former PMRVs. The law was passed to provide these owners and security interest holders with documentation to prove ownership and sales of former PMRVs. Without an Oregon vehicle title these owners may not be able to sell their former PMRV or provide an ownership document when needed or required. Security interest holders may not fund loans for buyers of former PMRVs without an ownership document. If the buyer cannot secure financing, the buyer may not be able to purchase the former PMRV.

The new law and this rulemaking do not require owners of former PMRVs to obtain an Oregon vehicle title. This rulemaking will only have a positive effect for owners of former PMRVs.

DMV 34-2021	Filed: 11/23/2021 4:18 PM
735-076-0005	Amend

Statement of Need

DMV receives vehicle crash reports by law enforcement officers in accordance with ORS 810.460. DMV has concluded that a report submitted by a law enforcement officer during the scope of the officer's job is a true and accurate reflection of the circumstances surrounding the crash. While processing the officer's report of a crash, DMV staff review the report to determine if the report documents that the person may no longer be qualified for driving privileges or may no longer be able to safely operate a motor vehicle. When DMV has reason to believe that the person is no longer able to safely operate a motor vehicle, DMV's non-mandatory At-Risk program requires the person to reestablish their eligibility by taking an examination under ORS 807.070 or following the procedures under ORS 807.090 (medical exam and/or testing).

DMV is able to accept crash reports from law enforcement officers as non-mandatory reports in the At-Risk program when the crash report meets reporting requirements under the non-mandatory program listed in OAR 735-076-0005. DMV is not able to act on crash reports submitted by a law enforcement officer that are not signed by the officer, even when the report clearly shows the person who caused the crash is unable to safely operate a motor vehicle. In recent years many law enforcement officers complete the crash report electronically, which are sometimes printed centrally and submitted to DMV without a signature. A rule amendment is needed to allow DMV to accept crash reports from law enforcement as non-mandatory reports when the report is not signed, but contains the law enforcement officer's employing agency name and Department of Public Safety Standards and Training (DPSST) number. The agency name and DPSST number is sufficient information to identify the officer.

Justification

DMV's non-mandatory program receives approximately 200 law enforcement crash reports per year with a possible cause of the crash shown on the report to be a mental or physical condition. Of those 200 reports there are approximately 50 reports that are not signed.

DMV receives unsigned crash reports from law enforcement officers that describe a physical or mental condition or impairment as a cause or possible cause of a crash or unsafe or dangerous driving behavior. If DMV does not act promptly on reports of drivers who may no longer be able to safely operate a motor vehicle, it will result in serious prejudice to the public interest and to the person who is the subject of the report. DMV needs to amend its rules to act on crash reports from law enforcement to ensure the person's reported condition does not lead to another crash and possible injury or death. As mentioned above, more law enforcement agencies are using electronic crash report applications and the completed crash report is often printed by the law enforcement agency's records department and mailed to DMV. While these are legitimate crash reports and meet law enforcement's obligations under ORS 810.460, many do not contain the police officer's signature. In lieu of the signature, DMV needs to be able to accept crash reports with the officer's agency name and DPSST number to ensure public safety. A recent administrative hearing resulted in reversal of the DMV action based solely on the fact the report was not signed, which was the first time this issue was called to DMV's attention. Therefore DMV must act quickly to correct the rule and ensure motorist safety.

Department of Transportation, Transportation Safety Division

Administrative Rules Annual Report

Chapter 737

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	0
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Transportation, Motor Carrier Transportation Division

Administrative Rules Annual Report Chapter 740

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	19
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2021 through December 31, 2021

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	21
Amended	16
Repealed	2

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0