

Enrolled
Senate Bill 640

Sponsored by Senator WINTERS; Senators ATKINSON, BEYER, DEVLIN, GEORGE, KRUSE,
MORSE, B STARR, C STARR, WHITSETT

CHAPTER

AN ACT

Relating to security measures for documents issued by Department of Transportation; creating new provisions; amending ORS 807.040, 807.110 and 807.400; repealing ORS 807.162; and limiting expenditures.

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

SECTION 1. Sections 2 to 5 of this 2005 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 2. "Biometric data" means measurements of the physical characteristics of an individual's face that can be used to authenticate the identity of an individual.

SECTION 3. (1) A person who applies for issuance, renewal or replacement of a driver license, driver permit or identification card shall submit to collection of biometric data by the Department of Transportation for the purpose of establishing the person's identity. Submitting to collection of biometric data under this section does not excuse a person from responsibility for complying with requirements for proof of identity, age or residence pursuant to ORS 807.050.

(2) For purposes of this section, a person's identity is established if:

(a) The department finds that the biometric data collected as required under subsection (1) of this section match the biometric data that are already in the department's records for that person; or

(b) The department finds that the biometric data collected as required under subsection (1) of this section do not match biometric data in the department's records for any other person and the department does not otherwise have reason to believe that the person is not who the person claims to be.

(3) If a person's identity is established as described in subsection (2) of this section, the department shall mail the driver license, driver permit or identification card to the address provided by the person when the person applied for the issuance, renewal or replacement of the license, permit or identification card.

(4) If a person's identity is not established as described in subsection (2) of this section, the department shall:

(a) Inform the person who submitted to collection of biometric data that the person's identity was not established; and

(b) Provide the person with the opportunity to establish the person's identity by an alternative method approved by the department by rule.

(5) If a person's identity was not established as described in subsection (2) of this section and the department has reason to believe that the crime of identity theft, as described in ORS 165.800, was committed by the person currently submitting to collection of biometric data or by a person who previously submitted to collection of biometric data under the identity of the person currently submitting to collection of biometric data, the department shall notify a law enforcement agency that has jurisdiction over the crime.

(6) The department by rule shall establish procedures for providing expedited processing of driver licenses, driver permits or identification cards.

(7) The department and employees of the department are immune from liability for any damages resulting from the issuance, renewal or replacement of a driver license, driver permit or identification card under another person's identity if the employee who processed the biometric data for a license, permit or identification card established the applicant's identity as described in subsection (2) of this section.

SECTION 4. (1) The Department of Transportation shall retain biometric data collected by the department in the course of issuing, renewing or replacing driver licenses, driver permits and identification cards.

(2) The biometric data may not be made available to anyone other than employees of the department acting in an official capacity.

SECTION 5. (1) In addition to any fee imposed under ORS 807.370 and 807.410, the Department of Transportation may impose a fee for each driver license, driver permit and identification card that is issued, renewed or replaced, for the purpose of covering the costs of purchasing equipment and establishing and maintaining a database used for collecting and verifying biometric data.

(2) A fee imposed under this section may not be more than \$3 per driver license, driver permit or identification card.

SECTION 6. ORS 807.040 is amended to read:

807.040. (1) The Department of Transportation shall issue a driver license to any person who complies with all of the following requirements:

[(1)] (a) The person must complete application for a license under ORS 807.050.

(b) **The person must submit to collection of biometric data by the department that establish the identity of the person as described in section 3 of this 2005 Act.**

[(2)] (c) The person must not be ineligible for the license under ORS 807.060 and must be eligible for the license under ORS 807.062.

[(3)] (d) The person must successfully pass all examination requirements under ORS 807.070 for the class of license sought.

[(4)] (e) **The person must pay** the appropriate license fee under ORS 807.370 for the class of license sought [*must be paid*].

[(5)] (f) **The person must pay** the Student Driver Training Fund eligibility fee [*must be paid*].

[(6)] (g) If the application is for a commercial driver license, the [*applicant*] **person** must be the holder of a Class C license or any higher class of license.

[(7)] (h) If the application is for a commercial driver license, the [*applicant*] **person** must submit to the department, in a form approved by the department, the report of a medical examination that establishes[, *to the satisfaction of the department,*] that the [*applicant*] **person** meets the medical requirements for the particular class of license. The department, by rule, shall establish medical requirements for purposes of this [*subsection*] **paragraph**. The medical requirements established under this [*subsection*] **paragraph** may include any requirements the department determines are necessary for the safe operation of vehicles permitted to be operated under the class of license for which the requirements are established.

[(8)] (i) If the application is for a commercial driver license, the [*applicant*] **person** must have at least one year's driving experience.

[(9)] (2) The department shall work with other agencies and organizations to attempt to improve the issuance system for driver licenses.

SECTION 7. ORS 807.110 is amended to read:

807.110. (1) A license issued by the Department of Transportation shall *[comply with]* **contain** all of the following:

[1] (a) *[A license shall bear]* The distinguishing number assigned to the person issued the license by the department.

[2] (b) *[A license shall contain,]* For the purpose of identification, a brief description of the person to whom the license is issued.

[3] (c) *[A license shall contain]* The name, date of birth and, except as provided for officers or eligible employees in ORS 802.250, residence address of the person to whom the license is issued and a space for the person's signature.

[4] (d) Upon request of the person to whom the license is issued, *[a license shall indicate on the license]* the fact that the person is an anatomical donor.

[5] (e) Upon order of the juvenile court, *[a license shall indicate on the license]* the fact that the person to whom the license is issued is an emancipated minor.

[6] (f) Except as otherwise provided in this *[subsection]* **paragraph**, *[a license shall bear]* a photograph described in this *[subsection]* **paragraph**. The Director of Transportation, by rule, may provide for issuance of a valid license without a photograph if the applicant shows good cause. The director shall include religious preferences as good cause for issuance of a license without a photograph but shall not limit good cause to religious grounds. A photograph required under this *[subsection]* **paragraph** shall:

[a] (A) Be a full-faced, color photograph of the person to whom the license is issued;

[b] (B) Be of a size approved by the department; and

[c] (C) Be taken at the time of application for issuance of the license whether the application is for an original license, replacement of a license under ORS 807.160 or for renewal of a license under ORS 807.150.

[7] *A license is not valid until signed by the person to whom it is issued.*

[8] (g) *[A license shall indicate]* The class of license issued and any endorsements granted. If the license is a commercial driver license, the words "commercial driver license" or the letters "CDL" shall appear on the license.

(2) A license is not valid until signed by the person to whom it is issued.

[9] (3) The department shall use *[such]* security procedures, processes and materials in the preparation, manufacture and issuance of any license that prohibit as nearly as possible anyone's ability to alter, counterfeit, duplicate or modify the license without ready detection. The security features used in the production of the licenses shall provide for:

(a) The *[rapid]* authentication of a genuine document **in a reasonable time; and**

(b) The production of the license only by equipment that requires verification of the identity of the operator of the equipment before a license may be produced.

SECTION 8. ORS 807.400 is amended to read:

807.400. (1) The Department of Transportation shall issue an identification card to any person who:

(a) Is domiciled in or resident of this state, as described in ORS 807.062;

(b) Does not have a current, valid driver license; *[and]*

(c) Furnishes such evidence of the person's age and identity as the department may require[.];

and

(d) Submits to collection of biometric data by the department that establish the identity of the person as provided in section 3 of this 2005 Act.

(2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.

(3) Every original application for an identification card must be signed by the applicant. The department shall require at least one document to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to

or renewed for the applicant, the department shall require proof to verify the address of an applicant for renewal of an identification card, in addition to anything else the department may require.

(4) Every identification card shall be issued upon the standard license form described under ORS 807.110 and shall bear a statement to the effect that the identification card is not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only. The department shall use the same security procedures, processes, materials and features for an identification card as are required for a license under ORS 807.110.

(5) Upon order of the juvenile court, the department shall include on the card the fact that the person issued the identification card is an emancipated minor.

(6) Each original identification card shall expire on a date consistent with the expiration dates of licenses as set forth in ORS 807.130.

(7) Identification cards shall be renewed under the terms for renewal of licenses as set forth in ORS 807.150.

(8) The fee for an original identification card or a renewal thereof shall be the fee established under ORS 807.410. *[In no event shall the issuance or renewal of an identification card be subject to any fee in addition to that set forth in ORS 807.410.]*

(9) An identification card becomes invalid if the holder of the card changes residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.

(10) If a person to whom an identification card was issued and who changes residence address appears in person at a department office that issues identification cards, the department may do any of the following:

(a) Issue a new identification card containing the new address but bearing the same distinguishing number as the old identification card upon receipt of the old identification card and payment of the fee established for issuing a new identification card with a changed address under ORS 807.410.

(b) Note the new address on the old identification card in a manner to be determined by the department.

(11) An identification card becomes invalid if the holder of the card changes the person's name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a new identification card upon payment of the fee required under ORS 807.410.

(12) In the event an identification card is lost, destroyed or mutilated, the person to whom it was issued may obtain a duplicate or replacement identification card from the department upon furnishing proof satisfactory to the department of such fact and payment of the duplicate or replacement fee under ORS 807.410.

(13) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.

(14) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders a license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection as described under any of the following:

(a) The department may issue an identification card under this subsection to a person who voluntarily surrenders a license or driver permit to the department based upon the person's recognition that the person is no longer competent to drive.

(b) The department may issue an identification card to a person under this subsection when the person's driving privileges are suspended under ORS 809.419 (1). This paragraph only applies if the person voluntarily surrenders the person's license or driver permit to the department as provided under ORS 809.500.

SECTION 9. Sections 10 to 12 of this 2005 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 10. (1) The Department of Transportation shall provide for the issuance of applicant temporary identification cards in a manner consistent with this section.

(2) The department may issue an applicant temporary identification card to an applicant while the department is determining all facts relative to the application for an identification card.

(3) An applicant temporary identification card shall be valid for a period of 30 days from the date issued. The department may extend the term of the applicant temporary identification card for sufficient cause. An extension of the term of the applicant temporary identification card may not be for more than 30 additional days. An applicant temporary identification card automatically becomes invalid if the applicant's identification card is issued or refused for good cause.

(4) The department may not charge a fee for issuance of an applicant temporary identification card under this section.

SECTION 11. If an applicant has complied with all requirements for an application for a driver license, driver permit or identification card, the department at the time of application may issue to the applicant:

(1) An applicant temporary driver permit as provided in ORS 807.310; or

(2) An applicant temporary identification card as provided in section 10 of this 2005 Act.

SECTION 12. Notwithstanding any provision of the Public Contracting Code, the Department of Transportation may, without competitive sealed bidding, competitive sealed proposals or other competition required in ORS 279B.050 to 279B.085, extend or amend any contract related to the security procedures, processes and materials used in the preparation, manufacture and issuance of driver licenses, driver permits and identification cards provided that:

(1) The extended or amended contract is financially prudent; and

(2) The contract is not extended or amended beyond July 1, 2013.

SECTION 13. Section 11 of this 2005 Act is repealed on July 1, 2008.

SECTION 14. Section 12 of this 2005 Act is repealed on July 1, 2013.

SECTION 15. ORS 807.162 is repealed on July 1, 2008.

SECTION 16. Notwithstanding any other law limiting expenditures, the limitation on expenditures established for the Department of Transportation for driver and motor vehicle services, for the biennium beginning July 1, 2005, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Transportation, is increased by \$298,000 for the purpose of carrying out the provisions of sections 2 to 5 and 10 to 12 of this 2005 Act and the amendments to ORS 807.040, 807.110 and 807.400 by sections 6 to 8 of this 2005 Act.

SECTION 17. Sections 2 to 5 of this 2005 Act and the amendments to ORS 807.040, 807.110 and 807.400 by sections 6 to 8 of this 2005 Act become operative on July 1, 2008.

SECTION 18. The Department of Transportation may take any action before the operative date of sections 2 to 5 of this 2005 Act that is necessary to enable the department to implement sections 2 to 5 of this 2005 Act and the amendments to ORS 807.040, 807.110 and

807.400 by sections 6 to 8 of this 2005 Act on and after the operative date of sections 2 to 5 of this 2005 Act.

Passed by Senate August 1, 2005

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Secretary of Senate

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President of Senate

Passed by House August 3, 2005

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Speaker of House

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State