

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING\***

A Statement of Need and Fiscal Impact accompanies this form.

Department of Transportation, Motor Carrier Transportation Division

740

Agency and Division

Administrative Rules Chapter Number

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Rules Coordinator

Address

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**RULE CAPTION**

Update statutory reference and add description to similar violations

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

**RULEMAKING ACTION**

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

**AMEND:** 740-300-0060

**REPEAL:**

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

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

ORS 184.616, 184.619, 823.011, 825.232

Stat. Auth..

None

Other Authority

ORS 825.250, 825.410, 825.950, 825.955

Stats. Implemented

**RULE SUMMARY**

These rules describe the general penalties for violations of statutes and rules related to motor carrier safety and describe the progressive levels of penalties. The level of penalties assessed is based on the motor carrier's compliance history. A motor carrier that repeats similar violations is subject to a suspension of operating authority, in addition to any authorized monetary penalties. The current rule describes "similar violations," however the list is not complete. The proposed amendment adds violations of drug and alcohol testing or use to the classifications for which similar violations are determined. Currently, a violation related to drug and alcohol testing or use is described as a similar violation under the description of: "Records and reports not included in subsections (a), (b) or (c) of this section." In order to clarify the rule, the amendment proposes that drug and alcohol testing or use be given its own "similar violation" description. In addition, the proposed amendment updates a statutory change made to ORS 825.955.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

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

**February 21, 2012**

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

Signature

Lauri Kunze

Printed name

Date

\* The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Transportation, Motor Carrier Transportation Division  
Agency and Division

740  
Administrative Rules Chapter Number

In the Matter of amending 740-300-0060 relating to general penalties regarding violations of safety statutes and rules.

**Rule Caption:** Update statutory reference and add description to similar violations.

**Statutory Authority:** ORS 184.616, 184.619, 823.011 & 825.232

**Other Authority:** None

**Statutes Implemented:** ORS 825.250, 825.410, 825.950 & 825.955

**Need for the Rule(s):** These rules describe the general penalties for violations of statutes and rules related to motor carrier safety and describe the progressive levels of penalties. The level of penalties assessed is based on the motor carrier's compliance history. A motor carrier that repeats similar violations is subject to a suspension of operating authority, in addition to any authorized monetary penalties. The current rule describes "similar violations," however the list is not complete. The proposed amendment adds violations of drug and alcohol testing or use to the classifications for which similar violations are determined. Currently, a violation related to drug and alcohol testing or use is described as a similar violation under the description of: "Records and reports not included in subsections (a), (b) or (c) of this section." In order to clarify the rule, the amendment proposes that drug and alcohol testing or use be given its own "similar violation" description. In addition, the proposed amendment updates a statutory change made to ORS 825.955.

**Documents Relied Upon and where they are available:** None

**Fiscal and Economic Impact, including Statement of Cost of Compliance:**

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): None.
2. Cost of compliance effect on small business (ORS 183.336): None.
  - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: None.
  - 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?** The proposed changes were sent to 14 groups representing small businesses seeking comment and none responded.

**Administrative Rule Advisory Committee consulted?:** No

**If not, why?:** There was no formal advisory committee formed to assist in the drafting of these changes because the changes clarify current practices.

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Authorized Signer

Lauri Kunze  
\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date