



## **New Oregon Driver's License Requirements : Background & Frequently Asked Questions**

**April 15, 2008**

**by Mark Kinzler, Jesse Maanao, Kate Lozano, and Anna Ciesielski<sup>1</sup>**

On November 16, 2007, Governor Ted Kulongoski issued Executive Order 07-22. Based on the notion that Oregon has become a magnet for the fraudulent activity for out-of-state residents who wish to obtain driver's licenses, EO 07-22 mandates the modification of the existing requirements with which Oregonians must comply in order to be issued, or re-issued, an Oregon driver's license or an Oregon ID card. Subsequent to the Governor's executive order, the Oregon Legislature enacted statutory amendments to existing driver license law, amendments that were signed into law. Also, Oregon Department of Transportation promulgated proposed regulatory amendments to comply with Executive Order 07-22 and the newly enacted legislation.

The new requirements regarding the DMV's use of social security numbers are found in §§2, 9-10, 16 of 2008 Oregon Laws 1st Sp. Sess. Ch. 1 (S.B. 1080), OAR 735-062-0005, OAR 735-062-0020, OAR 735-062-0021. Essentially, the new statutory and regulatory provisions mandate that all applicants for original, renewal, or replacement driver's licenses or ID cards must have a SSN that can and will be verified with the Social

---

<sup>1</sup> The authors are attorneys in private practice in Oregon specializing in immigration law and members of the Oregon Chapter of the American Immigration Lawyers Association. The views expressed herein are the views of the authors. Questions about this FAQ can be directed to Mark Kinzler at [kinzler\\_imm@yahoo.com](mailto:kinzler_imm@yahoo.com), Jesse Maanao at [jm@pbl.net](mailto:jm@pbl.net), Kate Lozano at [klozano@yahoo.com](mailto:klozano@yahoo.com), or Anna Ciesielski at [aciesielski@emoregon.org](mailto:aciesielski@emoregon.org).

Security Administration. The provisions also lay out the proper procedure in the event that an applicant cannot provide a SSN or has never been issued one.

Beginning on July 1, 2008, all applicants for Oregon driver's licenses and ID cards will be required to prove legal presence in the U.S. before the DMV will issue the license or ID card, pursuant to the amendments made to ORS 807.000 et. al., by Senate Bill 1080.

This FAQ was prepared by Mark Kinzler, Jesse Maanao, Kate Lozano, and Anna Ciesielski, members of the Oregon Chapter of the American Immigration Lawyers Association. The FAQ does not serve as a replacement for individual legal advice provided by an attorney.

### **1. What are the new statutory and regulatory requirements?**

The recent statutory and regulatory changes have affected the requirements for obtaining, renewing, or replacing a driver's license and ID Card in Oregon. Generally, there are two primary changes to the licensing scheme in Oregon:

1. All applicants must provide a verifiable Social Security Number to the DMV when applying for an original, replacement, or renewal license or ID card, and
2. Applicants will be required to prove "legal presence" in the United States in order to be issued a license or ID card.

### **2. When do the new requirements go into effect?**

The new requirements will go into effect in phases. The first phase, which gives legal effect to the Governor's executive order, occurred on February 4, 2008. The full statutory and regulatory changes found in Senate Bill 1080 and the proposed regulations (discussed below) are scheduled to go into effect on July 1, 2008.

### **3. What changes went into effect on February 4, 2008?**

Since February 4, 2008, Oregonians have been required to submit a Social Security Number, orally or in writing, to the DMV when applying to obtain, replace, or renew a driver's license. The DMV must then verify the name and date of birth attached to that number with the Social Security Administration in order to issue, renew, or replace a license or ID card. The applicant must also provide DMV approved documentation as proof of identity as currently found in OAR 735-062-0020. For instance, a driver's license, issued by any state, which has not been expired for more than one year currently still serves as proof of identity if a valid SSN is provided. If the Social Security number can be verified by the SSA and the applicant can provide proper proof of identity, the DMV will issue the license or ID card.

If an applicant has a SSN and gives it to the DMV, but the number cannot be verified with the SSA, the applicant will not be issued a driver's license until the issue is resolved. It is the applicant's responsibility to contact the SSA and resolve the problem. However, if the applicant's license is about to expire the DMV is authorized to issue a temporary, 30-day, driver's permit while the problem is being fixed. This temporary permit is only available for renewal or replacement licenses.

If the applicant has not been given a Social Security Number, the applicant can sign a sworn statement attesting to the fact that they have never been assigned a number. Then the applicant must provide documentation from the new list of documents found in OAR 735-062-0021. Generally, this list includes a valid U.S. passport (not expired more than five years), an unexpired foreign passport (with I-94), and unexpired documents issued by the Department of Homeland Security (an I-551, EAD, Certificate of Citizenship or Naturalization, re-entry permit, or refugee travel document).

**4. What changes will go into effect on July 1, 2008?**

On July 1, 2008, the requirements of Senate Bill 1080 will go into effect. In relevant part, this bill amends ORS 807.400, et. al., by adding new provision regarding the verification of Social Security Numbers and legal presence in the U.S. (see Sections 2 and 3 below). Beginning in July, all applicants for original, renewal, or replacement licenses or ID cards will be required to provide a valid social security card as well as statutorily approved documentation to establish legal presence in the U.S.

**5. Do the new statute and regulations establish new classes of driver's licenses?**

Yes. The new rules appear to create three classes of driver licenses.

<b>Types f Driver License</b>	<b>Validity Period</b>	<b>Who is Eligible?</b>
Oregon Driver License	Original license (non-renewal) expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.  A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.	U.S. citizens and lawful permanent residents.
Limited Term Driver	A license that is issued to a person	Non-citizens and

License	who is not a citizen or permanent legal resident of the United States expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of legal presence in the United States as required by sections 2 and 4 of this 2008 Act, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year. See §4(2), 2008 Oregon Laws 1st Sp. Sess. Ch. 1 (S.B. 1080), and ORS 807.130(3).	non-LPRs who can establish legal presence in the U.S.
Temporary Driver License	Valid for 90 days with a one-time extension of 60 days.	Any person who cannot establish legal presence under OAR 735-062-0015.

**6. Will the new requirements affect current holders of Oregon driver’s licenses?**

The new requirements will not affect current unexpired driver’s licenses until it is time for renewal or replacement. All current Oregon drivers’ licenses will remain valid until the expiration date stated on the license despite the new requirements.

**II. NEW SOCIAL SECURITY NUMBER VERIFICATION REQUIREMENTS**

**1. What is required by the DMV branches, as proof of a Social Security Number?**

At present, what is required depends upon whether the applicant is simply updating his/her address, renewing an Oregon driver’s license, or applying for an Oregon driver’s license for the first time. Currently, changes of address do not require production of a Social Security number. However, in contrast to the information posted on the DMV website, and S.B. 1080’s posted effective date of July 1, 2008, most branches have implemented a policy allowing verbal reporting of a Social Security number for license renewals only, while requiring production of an actual Social Security card for

first-time Oregon applicants. However, Social Security numbers are being verified, regardless of whether they are presented verbally or printed on a Social Security card.

**2. Will Social Security cards eventually be required of all applicants?**

Yes. Branches of the Oregon DMV, statewide, plan to begin requiring production of Social Security cards, even for license renewals, as of June 2008. It is therefore recommended that any client with a valid Social Security Number who has lost or misplaced his/her card request a replacement, and do so immediately if that individual will be applying for a new Oregon license or if their current Oregon license is due to expire this year.

**3. How does DMV verify Social Security Numbers and what information does that verification produce?**

The DMV verifies the social security numbers electronically with the Social Security Administration (SSA) while the application is being processed. The SSA will compare the applicant's name and date of birth with the Social Security Number presented. A client with a valid Social Security Number, but one that is not valid for work, will still be considered to have a valid Social Security Number for the purposes of a non-commercial driver's license.

**4. Are valid Social Security Numbers required to obtain Oregon ID cards, or only for driver's licenses?**

They are required for both.

**5. If an applicant has a valid Social Security Number, but that number is not verified by the Social Security Administration, how should the client correct the problem?**

If the applicant's valid Social Security Card has an incorrect number or name on it, the applicant should contact his/her local SSA office, but if the information is correct and is still not verified, the applicant should call 1-800-772-1213 to discover why the number was not verified.

**6. Can anything be done while waiting for the above problem to be corrected?**

Yes. If the applicant is seeking only a renewal or replacement license/ instruction permit he or she may obtain a 30 day Temporary Driver Permit, which will allow the applicant to drive legally for 30 days while resolving the problem with SSA. However, if the applicant is applying for his/her first Oregon driver license, a Temporary Driver Permit will not be issued until the problem with the social security number is resolved.

**7. What can an applicant do if he/she is not eligible for or has not received a Social Security Number?**

The applicant will be required to sign a statement certifying that he/she has never been issued a Social Security Number and must produce at least one of the following identification documents required under OAR 735-062-0021:

- (a) United States passport, not expired more than five years from the date of expiration.
- (b) Valid foreign passport with appropriate Department of Homeland Security documentation, not expired.
- (c) U.S. Department of Homeland Security documents, not expired, including:
  - (A) Resident Alien card or Permanent Resident card (I-551);
  - (B) Temporary Resident ID card (I-688);
  - (C) Employment Authorization Document (I-688A, I-688B and I-766);
  - (D) Certificate of Citizenship (N560 and N561);
  - (E) Certificate of Naturalization (N550, N570 and N578);
  - (F) Reentry Permit Form I-327; or
  - (G) Refugee Travel document Form I-571.
- (d) Immigrant Visa, issued by the United State Department of State, not expired.

**8. What will happen if a client applies for a driver's license without the appropriate documents?**

At this time, applicants are simply being denied a license. However, license branch protocols are still developing. Furthermore, even currently, law enforcement may be called if the applicant submits fraudulent identification documents, rather than simply failing to provide the documents requested.

**9. Will ODOT provide the public with services to assist applicants who experience difficulties obtaining a Social Security card or the proper identification documents to accompany a Social Security Number or certification that no Social Security number has been issued?**

Yes. Under the statute, ODOT must provide ombudsman services to applicants for driver licenses who are unable to produce the documents required. However, because these ombudsmen are to be produced using only existing resources, and the statute provides no specific information on their numbers, required training, etc., it is recommended that counsel assist and accompany any client who is applying for a driver's license and may have difficulties obtaining the required documents, or who may be presenting valid documents with which DMV staff may be unfamiliar.

### **III. NEW LEGAL PRESENCE REQUIREMENTS**

#### **1. Does the statute define the term legal presence?**

No; but the proposed administrative rules do contain a definition, which is found at OAR 735-062-0002(3):

As used in this division the following definitions apply:

\*\*\*\*

(3) "Legal presence" or "legal presence in the United States" means that a person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States under federal immigration laws.

#### **2. How does an applicant prove legal presence?**

The new regulatory provisions relating to proving legal presence for purposes of obtaining an Oregon driver license are found at OAR 735-062-0015. This regulation provides lists of documents that will be accepted by the DMV for the purpose of proving legal presence by virtue of U.S. citizenship, lawful permanent residence, or lawful presence other than by citizenship or permanent residence.

#### **3. How does an applicant prove status as a U.S. citizen?**

To prove status as a U.S. citizen, an applicant must provide either the original or certified copies of one of the following documents:

Documents acceptable as proof of U.S. citizenship include, but are not limited to:

- (a) A birth certificate issued by a U.S. Territorial government or the government of a state or political subdivision of a state of the United States. DMV will not accept a hospital-issued birth certificate, hospital card or birth registration or baptismal certificate.
- (b) U.S. Consular Report of Birth Abroad (FS-240).
- (c) U.S. Government issued Certificate of Birth.
- (d) Request for Verification of Birth (DD372).
- (e) United States passport, not expired more than five years.
- (f) United States passport card, not expired more than five years.
- (g) U.S. territory passport, not expired more than five years.

(h) Tribal ID card from a federally recognized tribe located in Oregon or a federally recognized tribe with an Oregon affiliation, if DMV determines:

(A) The procedures used in issuing the card are sufficient to prove that a member is legally present in the United States; and

(B) The card contains security features that are sufficient to prevent alteration or counterfeiting of the card.

(i) Certificate of Citizenship (N560 and N561).

(j) Certificate of Naturalization (N550, N570 and N578). OAR 735-062-0015(3).

#### **4. How does an applicant prove status as a lawful permanent resident?**

To prove status as a lawful permanent resident, an applicant must provide either the original or certified copies of one of the following documents:

Documents acceptable as proof of permanent legal residence in the U.S include, but are not limited to Resident Alien card, Permanent Resident card (I-551) or a Permit to Re-Enter (I-327). OAR 735-062-0015(4).

#### **5. Will DMV accept a temporary I-551 stamp on either a passport or a Form I-94 as proof of lawful permanent resident status?**

The proposed rule at OAR 735-062-0015(4) is not exclusive, so a temporary I-551 stamp on either a passport or a Form I-94 should satisfy proof of permanent legal residence for purposes of OAR 735-062-0015(4).

#### **6. How can a conditional resident establish proof of legal presence when his/her conditional resident card is expired and when his/her Form I-751 is pending?**

The proposed rule at OAR 735-062-0015(4) is not exclusive, so the Form I-797 (receipt notice) for the I-751 should suffice as proof of permanent legal residence for purposes of OAR 735-062-0015(4). Alternatively, the conditional resident should consider obtaining a temporary I-551 stamp in his/her passport or a temporary I-551 stamp on an I-94 while the I-751 is pending before the Service.

#### **7. How do other aliens establish legal status for purposes of OAR 735-062-0015?**

For purposes of OAR 735-062-0015, non-citizens and non-LPRs establish legal status with the following documents:

Documents acceptable as proof that a person who is not a citizen or permanent legal resident of the United States is legally present in the United States include, but are not limited to:

- (a) Valid foreign passport, not expired, with appropriate Arrival/Departure Record (I-94 or CBP I-94A) or a valid I-797 Notice of Action issued by the Department of Homeland Security or Custom and Border Protection.
- (b) U.S. Department of Homeland Security issued documents, not expired, including:
  - (A) Temporary Resident ID card (I-688);
  - (B) Employment Authorization card (I-688A, I-688B and I-766); or
  - (C) Refugee Travel Document Form I-571. OAR 735-062-0015(5).

**8. How does a nonimmigrant establish legal presence for purposes of OAR 735-062-0015?**

A nonimmigrant establishes legal presence using a valid, unexpired, foreign passport, along with a Form I-94, *Arrival/Departure Record*. OAR 735-062-0015(5)(a).

**9. What is the validity period for a nonimmigrant's driver license?**

A license that is issued to a nonimmigrant expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of legal presence in the United States as required by sections 2 and 4 of this 2008 Act, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year. See §4(2), 2008 Oregon Laws 1st Sp. Sess. Ch. 1 (S.B. 1080), and ORS 807.130(3).

**10. Can a non-immigrant with a pending change of status or extension of status application establish legal presence for purposes of OAR 735-062-0015?**

Because OAR 735-062-0015(5) permits a nonimmigrant to establish proof of status using a Form I-797, a nonimmigrant with a pending change of status or extension of status could use the Form I-797, *Receipt Notice*, as a basis to apply for a limited term driver license that is valid for at least 1 year. See ORS 807.130(3); and OAR 735-062-0015(5). Once the change of status or extension of status is approved, the nonimmigrant immigrant can use the I-797/I-94 to apply for a limited term driver license that is valid for the alien's authorized period of admission. See ORS 807.130(3); and OAR 735-062-0015(5).

**11. Can an EWI with a pending AOS or asylum application establish legal presence for purposes of OAR 735-062-0015(5)?**

Because an application for AOS or asylum permits an alien to apply for an interim EAD, an EWI alien with an EAD could use the EAD as a basis to apply for a limited term driver license that is valid for at least 1 year. See ORS 807.130(3); and OAR 735-062-0015(5).

**12. Can an alien with a case before the immigration judge, before the BIA or before the 9<sup>th</sup> Circuit establish legal presence for purposes of OAR 735-062-0015(5)?**

If the alien is eligible for an interim EAD, while the alien is in removal proceedings or while the alien's case is on appeal, then the alien could use the interim EAD as a basis to apply for a limited term driver license that is valid for at least 1 year. See ORS 807.130(3); and OAR 735-062-0015(5).

**13. If an applicant cannot establish lawful presence, is the applicant eligible for a temporary driver permit?**

Yes. Section §27 of S.B. 1080 allows for the DMV to issue a temporary 90-day permit for an applicant who cannot prove legal presence, but is able to certify to the DMV that, to the best of the applicant's knowledge, he or she is lawfully in the U.S. A temporary ID card may also be issued by the DMV under the same criteria.

**14. Is there an administrative review process to appeal a driver license refusal based on failure to prove legal presence?**

Yes. Proposed rule OAR 735-070-0020 provides for a hearing procedure in the event of license cancellation by the DMV to be conducted by the Office of Administrative Hearings.

**15. Will ODOT provide the public with services to assist applicants who experience difficulties establishing legal presence for purposes of OAR 735-062-0015?**

Yes. Under the statute, ODOT must provide ombudsman services to applicants for driver licenses who are unable to produce the documents required by OAR 735-062-0015. However, the regulation provides that ombudsman services will be provided "using existing resources," which leads the authors to question the potential effectiveness of such services given the considerable confusion that will most likely ensue during the transitional period.

## IV. Can I still participate in the rulemaking process? How?

Public comment may be submitted to ODOT by email, mail and fax.

Email: [lauri.g.kunze@odot.state.or.us](mailto:lauri.g.kunze@odot.state.or.us)

Mail:

Lauri Kunze  
ODOT Rules Coordinator  
355 Capitol St. NE, Room 29  
Salem, OR 97301

Facsimile: 503-986-4025

Public Hearings will be held at the following locations:

Salem, Oregon  
April 15, 2008 at 6:00 pm  
Transportation Building, Room  
122  
355 Capitol Street NE

Justice  
Downstairs Conference Room  
1101 W Main Street

Portland, Oregon  
April 16, 2008 at 6:00 pm  
Multnomah Building,  
Commissioners Boardroom  
501 SE Hawthorne

Bend, Oregon  
April 29, 2008 at 6:00 pm  
Sky View Middle School  
63555 Eighteenth Street

Eugene, Oregon  
April 17, 2008 at 6:00 pm  
Lane County Public Service  
Building, Harris Hall  
125 E Eighth Street

LaGrande, Oregon  
April 30, 2008 at 6:00 pm  
ODOT Region 5 Headquarters  
Large Conference Room  
3012 Island Drive

Coos Bay, Oregon  
April 23, 2008 at 6:00 pm  
Coos Bay Public Library,  
Myrtlewood Room  
525 Anderson Avenue

Medford, Oregon  
April 24, 2008 at 6:00 pm  
Jackson County Community

## **IV. SELECTED STATUTES AND REGULATIONS**

### **Selected sections of 2008 Oregon Laws 1st Sp. Sess. Ch. 1 (S.B. 1080):**

#### **SECTION 2.**

(1) Except as provided in ORS 807.310 (5) and 807.405 (4) of this 2008 Act, prior to issuing, renewing or replacing any driver license, driver permit or identification card, the Department of Transportation shall require a person to provide proof of both legal presence in the United States and a Social Security number or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

(2) For the purposes of subsection (1) of this section:

(a) A person provides proof of legal presence in the United States by submitting valid documentation, as defined by the department by rule, that the person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States in accordance with federal immigration laws.

.....

#### **SECTION 9.** ORS 807.040, as operative until July 1, 2008, 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:

(a) The person must complete an application for a license under ORS 807.050.

(b) As required by sections 2 and 4 of this 2008 Act, the person must present proof of both legal presence in the United States and a Social Security number or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

#### **SECTION 10.** 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:

(a) The person must complete an application for a license under ORS 807.050.

(b) As required by sections 2 and 4 of this 2008 Act, the person must present proof of both legal presence in the United States and a Social Security number or, if the person is not eligible for a Social

Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.  
(2) Proof of identity, date of birth and address. The department shall determine by rule what documents are acceptable to prove identity, date of birth and address.

**SECTION 15.** ORS 807.130 is amended to read:

807.130.

(1) A license that is issued as an original license and not as a license that is renewed expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.

(2) A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.

(3) Notwithstanding subsections (1) and (2) of this section, a license that is issued to a

person who is not a citizen or permanent legal resident of the United States expires on the

date the licensee is no longer authorized to stay in the United States, as indicated by the

documentation the person presented to the Department of Transportation to provide proof

of legal presence in the United States as required by sections 2 and 4 of this 2008 Act, but

no longer than eight years from the date of issuance or, if there is no definite end to the

authorized stay, after a period of one year.

(4) A license that has expired does not grant driving privileges and is not valid evidence

of driving privileges.

**SECTION 16.** ORS 807.162 is amended to read:

807.162.

Prior to issuing a replacement identification card, driver permit or driver license

to a person who is applying in person, the Department of Transportation shall require the person to present:

(1) As required by sections 2 and 4 of this 2008 Act, proof of both legal presence in the

United States and a Social Security number, or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number.

**SECTION 22.** 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 is a resident of this state, as described in ORS 807.062;

(b) As required by sections 2 and 4 of this 2008 Act, furnishes proof of both legal presence

in the United States and a Social Security number, or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number;

(c) Does not have a current, valid driver license;

(d) Furnishes evidence of the person's full legal name, age and identity as the department may require; and

(e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.

**Section §28**

(4) Notwithstanding section 11, chapter 775, Oregon Laws 2005, if an applicant has complied with all the requirements for an application for an identification card, except that the applicant is unable to produce the documentation required by the department under sections 2 and 4 of this 2008 Act, the department, at the time of application, may issue to the applicant an applicant temporary identification card as provided in this section if the applicant certifies that the applicant is, to the best of the applicant's knowledge, legally present in the United States.

(5) An applicant temporary identification card issued to an applicant under subsection (4) of this section is valid for a period of 90 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 60 days.

(6) An applicant temporary identification card automatically becomes invalid if the applicant's identification card is issued or refused for good cause.

**Section §35 (2):**

"The Department of Transportation may adopt rules or take any action before the operative date specified in subsection (1) of this section

necessary to enable the department to exercise, on or after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the department by section 2 of this 2008 Act and the amendments to ORS 807.050, 807.110, 807.310, 807.400 and 807.405 by sections 11, 13, 22, 27 and 28 of this 2008 Act.”

### **OAR 735-062-0002- Legal Presence Definition**

#### Definitions

As used in this division the following definitions apply:

\*\*\*\*

(3) “Legal presence” or “legal presence in the United States” means that a person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States under federal immigration laws.

### **OAR 735-062-0005-Social Security Number Verification**

(1) Except as provided in subsection (4) of this rule an applicant for driving privileges or an identification card must provide his or her Social Security Number (SSN) on the application for an original, renewal or replacement driver license, driver permit, or identification card.(2) The Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) will not issue, renew or replace a commercial driver license or driver permit unless the applicant provides a verifiable SSN. (3) Except as provided in subsection (5) of this rule, DMV will not issue, renew or replace a non-commercial driver license or driver permit, or an identification card unless the applicant provides a verifiable SSN. An applicant with a verifiable SSN must also provide a document proving identity and date of birth as set forth in OAR 735-062-0020 or DMV will refuse to issue, renew or replace a driver license, driver permit or identification card.(4) If an applicant for non-commercial driving privileges or an identification card has not been issued a SSN by the United States Social Security Administration (SSA), DMV will accept a written statement from the applicant to fulfill the requirements of section (1) of this rule. The applicant may submit a Statement of No Social Security Number (DMV Form 735-7255) but any written statement submitted must: (a) Be signed by the applicant; (b) Attest to the fact that no SSN has been issued to the applicant by the SSA; and (c) Describe the penalties for knowingly supplying false information under this section. (5) If an applicant for an original, renewal or replacement non-commercial driver license or driver permit, or identification card has never been issued a SSN and has submitted a statement as described in subsection (4)

of this rule, the applicant must provide additional identity documents as set forth in OAR 735-062-0021. If the applicant is unable to meet the requirements of OAR 735-062-0021, DMV will refuse to issue, renew or replace a driver license, driver permit or identification card to the applicant. (6) For purposes of this rule and OAR chapter 735, division 062, "verifiable SSN" means an applicant's SSN has been submitted by DMV to the SSA and DMV has received information that the applicant's name, date of birth and SSN matches SSA records. (7) This rule applies to all driver licenses, driver permits and identification cards issued on or after February 4, 2008.

**OAR 735-062-0015 -Proof of Legal Presence**

(1) Except as provided in OAR 735-062-0032 and 735-062-0033, a person who applies for any original, renewal or replacement driver permit, driver license, or identification card must provide valid documentary proof that the person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States in accordance with federal immigration laws. The documents provided must be either original or certified copies.

(2) If the applicant's name is different from the name in the document(s) submitted to prove legal presence pursuant to section (1) of this rule, the applicant must provide valid documentary proof that the applicant's name has been legally changed and that the applicant is the person identified in the documents(s) submitted to prove the applicant's legal presence. Documentary proof of an applicant's legal name change may include, but is not limited to: a marriage certificate, a divorce decree, a certificate of registered domestic partnership, a judgment of dissolution or annulment of marriage or domestic partnership, an adoption decree, and a court decree, order or judgment legally changing the applicant's name.

(3) Documents acceptable as proof of U.S. citizenship include, but are not limited to:

- (a) A birth certificate issued by a U.S. Territorial government or the government of a state or political subdivision of a state of the United States. DMV will not accept a hospital-issued birth certificate, hospital card or birth registration or baptismal certificate.
- (b) U.S. Consular Report of Birth Abroad (FS-240).
- (c) U.S. Government issued Certificate of Birth.
- (d) Request for Verification of Birth (DD372).
- (e) United States passport, not expired more than five years.
- (f) United States passport card, not expired more than five years.
- (g) U.S. territory passport, not expired more than five years.

(h) Tribal ID card from a federally recognized tribe located in Oregon or a federally recognized tribe with an Oregon affiliation, if DMV determines:

(A) The procedures used in issuing the card are sufficient to prove that a member is legally present in the United States; and

(B) The card contains security features that are sufficient to prevent alteration or counterfeiting of the card.

(i) Certificate of Citizenship (N560 and N561).

(j) Certificate of Naturalization (N550, N570 and N578).

(4) Documents acceptable as proof of permanent legal residence in the U.S include, but are not limited to Resident Alien card, Permanent Resident card (I-551) or a Permit to Re-Enter (I-327).

(5) Documents acceptable as proof that a person who is not a citizen or permanent legal resident of the United States is legally present in the United States include, but are not limited to:

(a) Valid foreign passport, not expired, with appropriate Arrival/Departure Record (I-94 or CBP I-94A) or a valid I-797 Notice of Action issued by the Department of Homeland Security or Custom and Border Protection.

(b) U.S. Department of Homeland Security issued documents, not expired, including:

(A) Temporary Resident ID card (I-688);

(B) Employment Authorization card (I-688A, I-688B and I-766); or

(C) Refugee Travel Document Form I-571.

(6) An applicant who is legally present in the United States but must obtain a document in order to provide proof to DMV may qualify for an applicant temporary driver permit as described in OAR 735-062-0032 that will provide driving privileges for a limited time.

### **735-062-0020 Proof of Identity and Date of Birth Requirements with Verified SSN**

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require an applicant for an original, renewal or replacement driver permit, driver license, or identification card to present to DMV documentary proof of the applicant's identity and date of birth prior to the issuance of such driver permit, driver license, or identification card. An applicant who has provided DMV a verifiable SSN must also provide at least one document, as described in Section (4) of this rule, as proof of identity and date of birth. (2) Documents must be original or certified copies. (3) For an original, renewal or replacement driver license, driver permit or identification card, if the applicant's name is different

than the name on the proof of identity and date of birth document submitted pursuant to section (1) of this rule, the applicant must provide one or more documents showing to DMV's satisfaction a legal name change including, but not limited to, a marriage certificate, divorce decree, certificate of registered domestic partnership, judgment of dissolution or annulment of marriage or domestic partnership, adoption decree, legal name change decree or court order. (4) Documents acceptable as proof of identity and date of birth are: (a) A U.S., Canadian or U.S. Territorial government issued birth certificate. For purposes of this subsection, DMV will not accept a hospital issued birth certificate, hospital card, birth registration or baptismal certificate. (b) U.S. Consular Report of Birth Abroad (FS-240). (c) Certification of Birth (DS-1350 or FS-545). (d) U.S. Military documents including: (A) Military or Armed Forces ID card; (B) Military Common Access Card; (C) U.S. Uniform Services ID and Privileges card (DD1173 and DD1173-1); and (D) Request for Verification of Birth (DD372). (e) United States passport, not expired more than five years from the date of expiration. (f) Valid foreign passport with appropriate Department of Homeland Security documentation, not expired. (g) U.S. Department of Homeland Security issued documents, not expired, including: (A) Resident Alien card or Permanent Resident card (I-551); (B) Temporary Resident ID card (I-688); (C) Employment Authorization Document (I-688A, I-688B and I-766); (D) Certificate of Citizenship (N560 and N561); (E) Certificate of Naturalization (N550, N570 and N578); (F) Reentry Permit Form I-327; or (G) Refugee Travel Document Form I-571. (h) Out-of-state, District of Columbia, U.S. Territorial government or Canadian driver license, instruction permit or identification card, that contains the applicant's photograph, not expired or expired no more than 60 days unless hole-punched or marked "Not Valid as ID." (i) Oregon driver license, instruction permit, or identification card, not expired more than one year. For the purposes of this subsection, DMV will not accept a driver license that was issued without a photograph. (j) Immigrant visa issued by the U.S. Department of State not expired. Must contain the stamp "UPON ENDORSEMENT SERVES AS TEMPORARY I-551 EVIDENCING PERMANENT RESIDENCE FOR 1 YEAR." (k) U.S. Department of State driver license or Non-driver ID card not expired or expired less than 60 days. (L) Oregon Concealed Weapon Permit/Concealed Handgun License, not expired or expired less than one year. (m) Confederated Tribes of Oregon Tribal ID card if: (A) DMV determines the procedures used in issuing the card are reasonably equivalent to DMV standards for verification of a person's age and identity; and (B) The card contains sufficient security features to alleviate alteration or counterfeiting of the card. (n) A letter verifying identity provided by an Oregon County Community Corrections agency if: (A)

DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and (B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter. (o) A letter verifying identity provided by the U.S. Pretrial Services if: (A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and (B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter. (p) A letter verifying identity provided by the Oregon Youth Authority Agency if: (A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and (B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter. (q) A letter verifying identity provided by a U.S. District Court Probation Office if: (A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and (B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter. (r) Oregon Department of Correction Release Identification card, issued after April 30, 2005. (5) DMV will not accept a document as proof of identity and date of birth if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of identity and date of birth if the document presented does not establish the applicant's identity or date of birth to the satisfaction of DMV.

#### **735-062-0021 Proof of Identity and Date of Birth Requirements when no SSN**

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require an applicant for an original, renewal or replacement driver permit, driver license, or identification card to present to DMV documentary proof of the applicant's identity and date of birth prior to the issuance of such driver permit, driver license, or identification card. An applicant who has never been issued a SSN and who has submitted a statement as described in OAR 735-062-0005(4) must provide at least one document, as described in section (4) of this rule, as proof of identity and date of birth to DMV. (2) Documents must be original or certified copies. (3) For an original, renewal or replacement driver license, driver permit or identification card, if the applicant's name is different than the name on proof of identity and date of birth submitted pursuant to section (1) of this rule, the applicant must provide one or more documents showing to DMV's satisfaction a legal name change including, but not limited to, a marriage certificate, divorce decree, certificate of registered

domestic partnership, judgment of dissolution or annulment of marriage or domestic partnership, adoption decree, legal name change decree or court order. (4) Acceptable proofs of identity and date of birth are: (a) United States passport, not expired more than five years from the date of expiration. (b) Valid foreign passport with appropriate Department of Homeland Security documentation, not expired. (c) U.S. Department of Homeland Security documents, not expired, including: (A) Resident Alien card or Permanent Resident card (I-551); (B) Temporary Resident ID card (I-688); (C) Employment Authorization Document (I-688A, I-688B and I-766); (D) Certificate of Citizenship (N560 and N561); (E) Certificate of Naturalization (N550, N570 and N578); (F) Reentry Permit Form I-327; or (G) Refugee Travel document Form I-571. (d) Immigrant Visa, issued by the United State Department of State, not expired. (5) DMV will not accept a document as proof of identity and date of birth if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of identity or date of birth if the document presented does not establish the applicant's identity and date of birth to the satisfaction of DMV.

#### **OAR 735-070-0020- Hearing Following a Cancellation**

- (1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will grant a contested case hearing for cancellation actions in accordance with sections (5) and (6) of this rule.
- (2) A request for a hearing on the cancellation of a driver permit, driver license or identification card must comply with the requirements established in OAR 735-070-0110.
- (3) When DMV receives a timely request for a hearing on the cancellation of a driver permit, driver license, or identification card, the cancellation will not go into effect pending the outcome of the hearing, except in the following situations:
  - (a) When DMV determines that there is a serious danger to the public health, safety, or welfare;
  - (b) When the cancellation is due to a person's inability to establish identity as required in ORS 807.024 and OAR 735-062-0016;
  - (c) When the cancellation is for withdrawal of parent's consent; or
  - (d) When the cancellation has gone into effect.

(4) For the purposes of this rule, a serious danger to the public health, safety or welfare includes, but is not limited to, the following:

(a) A false or fraudulent driver permit, driver license or identification card has been issued and it could be used to facilitate:

(A) A minor's acquisition of alcoholic beverages;

(B) The cashing of forged checks;

(C) The acquisition of property under false pretenses;

or

(D) Any other unlawful activity.

(b) A driver permit or driver license is issued to a person whose driving privileges are suspended or revoked at the time the driver permit or driver license is issued. This applies to a situation where DMV would not have issued the driver permit or driver license had it known at the time that the person's driving privileges were suspended or revoked.

(c) A person determined by DMV to be an endangerment to persons or property and denied further testing through cancellation of driving privileges under ORS 807.350 and OAR 735-062-0073(5).

(5) The Office of Administrative Hearings will conduct hearings held on identification card cancellations under ORS 807.400 as contested cases in accordance with ORS 183.310 to 183.550.

(6) The Office of Administrative Hearings will conduct hearings held on driver permit or driver license cancellations under ORS 809.310 not based on a conviction as contested cases in accordance with ORS 183.310 to 183.550.