

TITLE 5

PUBLIC PEACE, HEALTH, SAFETY, AND WELFARE

Division 1 — Vehicles and Traffic

CHAPTER 525

VEHICLE NUISANCE CODE

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I. GENERAL PROVISIONS AND REGULATIONS

525.005 Title

This Chapter, LCC 525.005 to LCC 525.250, shall be known and may be cited as the “Linn County Vehicle Nuisance Code” or simply as the “Vehicle Nuisance Code.”

[Adopted 97-349 §1 eff 8/6/9; 03-285 §1 eff 7/30/03]

525.007 Definitions

The following definitions apply to this chapter:

(A) “**Sheriff**” means, in addition to the Linn County Sheriff, the authorized representatives and deputies of the Linn County Sheriff.

[Adopted 97-349 §1 eff 8/6/97; amd 03-285 §1 eff 7/30/03]

525.010 Certain vehicles as nuisances

The vehicle being operated by the person described in LCC 525.100 is declared to be a nuisance and is subject to impoundment under, and the procedures described in, this chapter

[Adopted 97-349 §1 eff 8/6/97; amd 97-580 §1 eff 11/25/97]

II. IMPOUNDMENT OF ABANDONED VEHICLES

525.100 Impoundment

(A) Pursuant to ORS 809.720, a police officer may order a vehicle impounded when the officer has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed any of the following offenses:

- (1) Driving while suspended or revoked in violation of ORS 811.175 or 811.182;
- (2) Driving while under the influence of intoxicants in violation of ORS 813.010;

(3) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010; or

(4) Driving uninsured in violation of ORS 806.010.

[Adopted 97-349 §1 eff 8/6/97 amd 97-580 §1 eff 11/25/97; amd 03-285 §1 mm/dd/03]

525.130 Redemption and release of impounded vehicle

(A) The owner of the impounded vehicle, or the owner's authorized agent, may redeem the vehicle after providing satisfactory proof of:

(1) payment of the towing and storage expenses incurred:

(2) payment of an administrative fee of \$100 to Linn County, whether or not the motor vehicle is returned to the person who was operating it at the time of impoundment;

(3) ownership or right to possession;

(4) current insurance on the vehicle;

and

(5) a valid driver's license for either the owner or driver designated by the owner to operate the vehicle upon its release.

(B) Only the Sheriff has authority to release a vehicle impounded pursuant to this chapter.

(C) The Sheriff will not authorize a release until full payment of the administrative fee has been made.

(D) No commercial towing company or similar business storing a vehicle impounded pursuant to this chapter may release such vehicle unless that business or company is presented a signed release for that vehicle on a form provided and signed by the Sheriff.

[Adopted 97-349 §1 eff 8/6/97; amd 03-285 §1 mm/dd/03]

III. NOTICE

525.210 Notice to owner

At the time the vehicle is impounded, a copy of the impound notice shall be given to the driver. Additional notice, as may be required, shall be made as provided in LCC 510.310.

[Adopted 97-349 §1 eff 8/6/97; amd 03-285 §1 mm/dd/03]

IV. HEARING PROCEDURES

525.220 Hearing

Any hearing contesting the validity of the impoundment, and the reasonableness of any towing or storage charges, shall be conducted as provided in LCC 510.400 and 510.430 .

[Adopted 97-349 §1 eff 8/6/97; amd 03-285 §1 mm/dd/03]

525.240 Towing and storage liens

(A) A person or business who, at the request of the Sheriff takes a vehicle into custody under the provisions of this chapter

(1) shall have a lien on the vehicle and its contents for reasonable towing and storage charges,

(2) may retain possession of the vehicle until the charges are paid, and

(3) may have the vehicle sold at public auction to satisfy the lien.

(B) The lien that attaches to the vehicle and its contents shall be a possessory chattel lien in accordance with ORS 87.152 and may be foreclosed in the manner provided in ORS 87.152 to ORS 87.212.

(C) If the appraised value of the vehicle is \$1,000 or less, the vehicle may be disposed of in the manner provided in ORS 819.220. If the vehicle is taken into custody under the provisions of this chapter and held by the County rather than by a private garage, the vehicle and its contents shall be disposed of in the manner provided in ORS 819.210 to 819.260.

[Adopted 97-349 §1 eff 8/6/97; amd 03-285 §1 mm/dd/03]

525.250 Criminal investigations

The provisions of this Chapter shall not apply to a vehicle that is being held as part of a criminal investigation.

[Adopted 97-349 §1 eff 8/6/97]

Statutory References and Other Authorities:

ORS 87; 203; 809; 810, 811; 813; 819; Senate Bill 780 (1997); LCC 510

Legislative History of Chapter 525:

Adopted 97-349 eff 8/6/97

Amendments to 97-349

#1 97-580 eff 11/25/97

#2 03-285 eff 7/30/03

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809.698 Definition of “vehicle immobilization device.” As used in ORS 809.700 and 809.702, a “vehicle immobilization device” means a device that may be clamped and locked onto a part of a motor vehicle for the purpose of immobilizing the vehicle. [1997 c.540 §2; 1999 c.467 §1]

809.700 Court-ordered impoundment or immobilization upon conviction; grounds; duration; vehicles subject; return; security interest holder rights. A court may order a motor vehicle impounded or immobilized upon conviction for the traffic offenses described in this section. The authority to impound or immobilize a vehicle under this section is subject to all of the following:

(1) The court may order a vehicle impounded or immobilized under this section when a person is convicted:

(a) For driving a motor vehicle while the person’s license is suspended or revoked in violation of ORS 811.175 or 811.182; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) A vehicle may be impounded or immobilized under this section for not more than one year from judgment.

(3) The following vehicles may be impounded under this section:

(a) Any motor vehicle of which the convicted person is the owner.

(b) Any motor vehicle which the convicted person is operating at the time of arrest.

(4) A vehicle may be immobilized under this section if the vehicle is registered in this state and is a vehicle that may be impounded under subsection (3) of this section.

(5)(a) If a vehicle is ordered to be immobilized under this section and if the convicted person resides in the jurisdiction of the law enforcement agency that arrested the person for the offense described in subsection (1) of this section, the arresting law enforcement agency shall install a vehicle immobilization device on the vehicle. If the convicted person does not reside in the jurisdiction of the law enforcement agency that arrested the person, the sheriff of the county in which the person resides shall install the device.

(b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the owner of the vehicle or at the location where the owner regularly parks the vehicle.

(c) A vehicle ordered immobilized under this section may be immobilized only in a location at which the vehicle may be legally stored for the period of the immobilization order. If no location is available at which the vehicle may be legally stored, the vehicle may be impounded for the period of the immobilization order.

(d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered under this section shall be

subject to contempt of court proceedings under ORS 33.015 to 33.155.

(6)(a) If a vehicle is impounded under this section, the person convicted shall be liable for the expenses incurred in the removal and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.

(b) If a vehicle is immobilized under this section, the person convicted shall be liable for the expenses incurred in installation and removal of the vehicle immobilization device and for rental of the device during the period the device is installed on the vehicle, whether or not the vehicle is released to the person convicted.

(7) A vehicle shall be released or returned to the person convicted or the owner only upon payment of the expenses incurred in the immobilization or removal and storage of the vehicle under this section.

(8) If a vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may be disposed of in accordance with procedures under ORS 819.180, 819.190, 819.210, 819.220 and 819.240 to 819.260.

(9) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or immobilized under this section only if the court is satisfied by a preponderance of the evidence that the owner knew or had good reason to know that the convicted person:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants.

(10) The authority to impound or immobilize a vehicle under this section is subject to the rights of a security interest holder under a security agreement executed before an arrest for violation of an offense for which the vehicle may be impounded or immobilized under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

(a) Request in writing is made to the court;

(b) If the vehicle has been impounded or immobilized, the security interest holder pays the expenses in removal and storage or in immobilization of the vehicle; and

(c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest holder takes possession of the vehicle subject to the suspension of the registration remaining in effect against the registered owner.

(11) A security interest holder’s obligation to pay and right to recover removal and storage or immobilization expenses under subsection (10) of this section are limited to the recovery of those removal and storage or immobilization expenses incurred during the initial 20-day period when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into custody or immobilizing the vehicle under this section has

¹For convenience to the reader, many of the applicable ORS provisions are included in this appendix.

transmitted by certified mail a written notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is in private storage, the lien claimant shall transmit the written notice. [1983 c.338 §385; 1985 c.16 §200; 1987 c.730 §18; 1993 c.385 §3; 1997 c.540 §3; 1999 c.467 §2]

809.702 Tampering with vehicle immobilization device; penalty. (1) A person commits the offense of tampering with a vehicle immobilization device if the person does anything to a vehicle immobilization device that was ordered installed under ORS 809.700 that circumvents the operation of the device.

(2) The offense described in this section, tampering with a vehicle immobilization device, is a Class A traffic violation. [1997 c.540 §5; 1999 c.467 §3]

809.710 Authority to refuse to release vehicle to intoxicated person. Notwithstanding any other provision of law, a police officer, a police agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants. [Formerly 484.225]

809.715 [Formerly 806.014; 1997 c.514 §5; repealed by 2001 c.748 §2]

809.716 Hearing on impoundment. (1) A person entitled to lawful possession of a vehicle impounded under ORS 809.720 may request a hearing to contest the validity of the impoundment. A request must be made within five calendar days after the date that notice of the impoundment is mailed, as evidenced by the postmark, not including Saturdays, Sundays or holidays. The request shall be made to a person designated by the impounding police agency to receive such requests.

(2) When a timely request for a hearing is made, a hearing shall be held before a hearings officer designated by the impounding police agency. The hearing shall be set for four calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.

(3) The impounding police agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182 or 813.010. The police officer who ordered the vehicle impounded may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.

(4) If the hearings officer finds that the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

(5) If the hearings officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession

of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by the impounding police agency.

(6) A police agency may contract with another agency or entity to conduct hearings under this section. [Formerly 806.016; 1997 c.514 §4; 1999 c.1051 §284a; 2001 c.748 §3]

809.720 Impoundment for specified offenses; grounds; notice; release. (1) A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer. This subsection applies to the following offenses:

(a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.

(b) Driving while under the influence of intoxicants in violation of ORS 813.010.

(c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.

(d) Driving uninsured in violation of ORS 806.010.

(2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

(3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon compliance with the following:

(a) Submission of proof that a person with valid driving privileges will be operating the vehicle;

(b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and

(c) Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.

(4) Notwithstanding subsection (3) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(5) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.

(6) Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.

(7) Nothing in this section or ORS 809.716 limits either the authority of a city or county to adopt ordinances dealing with impounding of uninsured vehicles or the contents of such ordinances except that cities and counties shall comply with the notice requirements of subsection (2) of this section and ORS 809.725.

(8) A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment. [1997 c.514 §2; 2001 c.748 §1]

Note: Section 4, chapter 748, Oregon Laws 2001, provides:
Sec. 4. (1) The amendments to ORS 809.716 and 809.720 by sections 1 and 3 of this 2001 Act and the repeal of ORS 809.715 by section 2 of this 2001 Act apply to vehicles impounded on or after the effective date of this 2001 Act [January 1, 2002].

(2) A vehicle impounded pursuant to ORS 809.715 (1999 Edition) that has not been released or otherwise disposed of prior to the effective date of this 2001 Act shall be considered to have been impounded pursuant to ORS 809.720. [2001 c.748 4]

809.725 Notice following impoundment under city or county ordinance. (1) When a motor vehicle is impounded under authority of a city or county ordinance, the city or county shall give notice of the impoundment to the owners of the motor vehicle and to any lessors or security interest holders as shown on the records of the Department of Transportation. The notice shall be given within 48 hours of impoundment.

(2) The notice required by subsection (1) of this section shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle. [1997 c.514 §3]

809.730 Seizure of motor vehicle for civil forfeiture. (1) A motor vehicle may be seized for civil forfeiture if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Driving while under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction; or

(b) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction.

(2) All seizure and civil forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 475A. [1999 c.1100 §2; 2001 c.104 §304; 2001 c.780 §18]

Note: The amendments to 809.730 by section 18a, chapter 780, Oregon Laws 2001, become operative July 31, 2005. See section 18b, chapter 780, Oregon Laws 2001. The text that is operative on and after July 31, 2005, is set forth for the user's convenience.

Note: The amendments to 809.730 by section 18a, chapter 780, Oregon Laws 2001, become operative July 31, 2005. See section 18b, chapter 780, Oregon Laws 2001. The text that is operative on and after July 31, 2005, is set forth for the user's convenience.

810.410 Arrest and citation. (1) A police officer may arrest

809.730. (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Driving while under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction; or

(b) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction.

(2) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 475A.

809.735 Preemption of local forfeiture ordinances. (1) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(2) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city with a population exceeding 400,000 or a county with a population exceeding 500,000 from enacting, on or before January 1, 2000, an ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(3) Notwithstanding subsections (1) and (2) of this section, seizure and forfeiture procedures in a city or county ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730 shall be in accordance with ORS chapter 475A. [1999 c.1100 §3]

Note: 809.735 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

810.240 Unlawful interference with traffic control device or railroad sign; penalty. (1) A person commits the offense of unlawful interference with a traffic control device or railroad sign if the person, without lawful authority and with criminal negligence, attempts to or does alter, deface, injure, knock down or remove any traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

(2) The offense described in this section, unlawful interference with traffic control device or railroad sign, is a Class A traffic violation. [1983 c.338 §709; 1995 c.383 §11]

810.400 Uniform or badge required. Any police officer attempting to enforce the traffic laws of this state shall be in uniform or shall conspicuously display an official identification card showing the officer's lawful authority. [1983 c.338 §399]

or issue a citation to a person for a traffic crime at any place

within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act as provided by ORS 133.235 and 133.310.

(2) A police officer may issue a citation to a person for a traffic violation at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act:

(a) When the traffic violation is committed in the police officer's presence; or

(b) When the police officer has probable cause to believe an offense has occurred based on a description of the vehicle or other information received from a police officer who observed the traffic violation.

(3) A police officer:

(a) Shall not arrest a person for a traffic violation.

(b) May stop and detain a person for a traffic violation for the purposes of investigation reasonably related to the traffic violation, identification and issuance of citation.

(c) May make an inquiry into circumstances arising during the course of a detention and investigation under paragraph (b) of this subsection that give rise to a reasonable suspicion of criminal activity.

(d) May make an inquiry to ensure the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.

(e) May request consent to search in relation to the circumstances referred to in paragraph (c) of this subsection or to search for items of evidence otherwise subject to search or seizure under ORS 133.535.

(f) May use the degree of force reasonably necessary to make the stop and ensure the safety of the peace officer, the person stopped or other persons present.

(g) May make an arrest of a person as authorized by ORS 133.310 (2) if the person is stopped and detained pursuant to the authority of this section.

(4) When a police officer at the scene of a traffic accident has reasonable grounds, based upon the police officer's personal investigation, to believe that a person involved in the accident has committed a traffic offense in connection with the accident, the police officer may issue to the person a citation for that offense. The authority under this subsection is in addition to any other authority to issue a citation for a traffic offense. [1983 c.338 §400; 1985 c.16 §212; 1991 c.720 §1; 1995 c.308 §1; 1997 c.682 §1; 1997 c.866 §§4,5; 1999 c.1051 §89]