

Requested by SENATE COMMITTEE ON JUDICIARY (at the request of Department of Justice)

**PROPOSED AMENDMENTS TO  
SENATE BILL 1503**

1 On page 1 of the printed bill, line 3, delete “813.010 and 813.300” and in-  
2 sert “163.118, 163.149, 163.185, 813.010, 813.011 and 813.300”.

3 Delete lines 5 through 30 and delete pages 2 and 3 and insert:

4 **“SECTION 1. Section 2 of this 2020 Act is added to and made a part**  
5 **of the Oregon Vehicle Code.**

6 **“SECTION 2. ‘Statutory counterpart’ means a statute from another**  
7 **jurisdiction that has the same use, role or characteristics as an iden-**  
8 **tified Oregon statute notwithstanding differences in substantive scope**  
9 **between the statutes. Another jurisdiction’s statute need not be the**  
10 **same or nearly the same as an identified Oregon statute to be consid-**  
11 **ered a statutory counterpart.**

12 **“SECTION 3. ORS 813.010 is amended to read:**

13 “813.010. (1) A person commits the offense of driving while under the in-  
14 fluence of intoxicants if the person:

15 **“(a) Drives a vehicle while the person:**

16 **“[(a)] (A) Has 0.08 percent or more by weight of alcohol in the blood of**  
17 **the person as shown by chemical analysis of the breath or blood of the per-**  
18 **son made under ORS 813.100, 813.140 or 813.150;**

19 **“[(b)] (B) Is under the influence of intoxicating liquor, cannabis, a con-**  
20 **trolled substance or an inhalant; or**

21 **“[(c)] (C) Is under the influence of any combination of intoxicating liquor,**

1 cannabis, a controlled substance and an inhalant[.]; or

2       “(b) Within two hours after driving a vehicle, has 0.08 percent or  
3 more by weight of alcohol in the blood of the person, as shown by  
4 chemical analysis of the breath or blood of the person made under  
5 ORS 813.100, 813.140 or 813.150.

6       “(2) A person may not be convicted of driving while under the influence  
7 of intoxicants on the basis of being under the influence of a controlled sub-  
8 stance or an inhalant unless the fact that the person was under the influence  
9 of a controlled substance or an inhalant is pleaded in the accusatory in-  
10 strument and is either proved at trial or is admitted by the person through  
11 a guilty plea.

12       “(3) A person convicted of the offense described in this section is subject  
13 to ORS 813.020 in addition to this section.

14       “(4) Except as provided in subsection (5) of this section, the offense de-  
15 scribed in this section, driving while under the influence of intoxicants, is  
16 a Class A misdemeanor and is applicable upon any premises open to the  
17 public.

18       “(5)(a) Driving while under the influence of intoxicants is a Class C fel-  
19 ony if the current offense was committed in a motor vehicle and the person  
20 has, at least three times in the 10 years prior to the date of the current of-  
21 fense, been convicted of, or been found to be within the jurisdiction of the  
22 juvenile court for an act that if committed by an adult would be, any of the  
23 following offenses in any combination:

24       “(A) Driving while under the influence of intoxicants in violation of **this**  
25 **section**[:].

26       “[(i) *This section; or*]

27       “[(ii)] (B) The statutory counterpart to this section in another jurisdic-  
28 tion.

29       “[(B)] (C) [A] **Any** driving under the influence of intoxicants offense in  
30 another jurisdiction that involved the impaired driving or operation of a

1 vehicle, an aircraft or a boat due to the use of intoxicating liquor, cannabis,  
2 a controlled substance, an inhalant or any combination thereof.

3 “[C] (D) [A] **Any** driving offense in another jurisdiction that involved  
4 operating a vehicle, an aircraft or a boat while having a blood alcohol con-  
5 tent above that jurisdiction’s permissible blood alcohol content.

6 “(b) For the purposes of paragraph (a) of this subsection, a conviction or  
7 adjudication for a driving offense in another jurisdiction based solely on a  
8 person under 21 years of age having a blood alcohol content that is lower  
9 than the permissible blood alcohol content in that jurisdiction for a person  
10 21 years of age or older does not constitute a prior conviction or adjudi-  
11 cation.

12 “(6) In addition to any other sentence that may be imposed, the court  
13 shall impose one or more of the following fines on a person convicted of  
14 driving while under the influence of intoxicants as follows:

15 “(a) For a person’s first conviction, a minimum of \$1,000.

16 “(b) For a person’s second conviction, a minimum of \$1,500.

17 “(c) For a person’s third or subsequent conviction, a minimum of \$2,000  
18 if the person is not sentenced to a term of imprisonment.

19 “(d)(A) For a person who drives a vehicle while the person has 0.15 per-  
20 cent or more by weight of alcohol in the blood of the person as shown by  
21 chemical analysis of the breath or blood of the person made under ORS  
22 813.100, 813.140 or 813.150, a minimum of \$2,000.

23 “(B) **For a person who, within two hours after driving a vehicle, has**  
24 **0.15 percent or more by weight of alcohol in the blood of the person,**  
25 **as shown by chemical analysis of the breath or blood of the person**  
26 **made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.**

27 “(7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a  
28 court may impose on a person convicted of driving while under the influence  
29 of intoxicants if:

30 “(a) The current offense was committed in a motor vehicle; and

1 “(b) There was a passenger in the motor vehicle who was under 18 years  
2 of age and was at least three years younger than the person driving the  
3 motor vehicle.

4 **“(8) It is an affirmative defense to a charge of violating subsection**  
5 **(1)(b) of this section that the defendant consumed a sufficient quantity**  
6 **of alcohol after the time of driving a vehicle and before the adminis-**  
7 **tration of a chemical analysis of the defendant’s breath or blood to**  
8 **cause the defendant’s blood alcohol content to be 0.08 percent or more**  
9 **within two hours after driving. The court may not admit evidence of**  
10 **this defense unless the defendant notifies the prosecution in writing**  
11 **at least 21 days before the first trial setting of defendant’s intent to**  
12 **assert the affirmative defense.**

13 **“SECTION 4.** ORS 813.011 is amended to read:

14 “813.011. (1) Driving under the influence of intoxicants under ORS 813.010  
15 shall be a Class C felony if **at least two times in the 10 years prior to**  
16 **the date of the current offense** the defendant has been convicted of [*driv-*  
17 *ing under the influence of intoxicants in violation of ORS 813.010, or its stat-*  
18 *utory counterpart in another jurisdiction, at least two times in the 10 years*  
19 *prior to the date of the current offense.*] **any of the following offenses in**  
20 **any combination:**

21 **“(a) Driving under the influence of intoxicants in violation of ORS**  
22 **813.010.**

23 **“(b) The statutory counterpart, as defined in section 2 of this 2020**  
24 **Act, to ORS 813.010 in another jurisdiction.**

25 **“(c) Any driving under the influence of intoxicants offense in an-**  
26 **other jurisdiction that involved the impaired driving or operation of a**  
27 **vehicle, an aircraft or a boat due to the use of intoxicating liquor,**  
28 **cannabis, a controlled substance, an inhalant or any combination**  
29 **thereof.**

30 **“(d) Any offense in another jurisdiction that involved driving or**

1 **operating a vehicle, an aircraft or a boat while having a blood alcohol**  
2 **content above that jurisdiction’s permissible blood alcohol content.**

3 “(2) Once a person has been sentenced for a Class C felony under this  
4 section, the 10-year time limitation is eliminated and any subsequent episode  
5 of driving under the influence of intoxicants shall be a Class C felony re-  
6 gardless of the amount of time which intervenes.

7 “(3) Upon conviction for a Class C felony under this section, the person  
8 shall be sentenced to a mandatory minimum term of incarceration of 90 days,  
9 without reduction for any reason.

10 **“SECTION 5.** ORS 813.300 is amended to read:

11 “813.300. (1) At the trial of any civil or criminal action, suit or proceeding  
12 arising out of the acts committed by a person driving a motor vehicle while  
13 under the influence of intoxicants, if the amount of alcohol in the person’s  
14 blood at the time alleged is less than 0.08 percent by weight of alcohol as  
15 shown by chemical analysis of the person’s breath or blood, it is indirect  
16 evidence that may be used with other evidence, if any, to determine whether  
17 or not the person was then under the influence of intoxicants.

18 “(2) Not less than 0.08 percent by weight of alcohol in a person’s blood  
19 constitutes being under the influence of intoxicating liquor.

20 “(3) Notwithstanding subsection (2) of this section, for purposes of the  
21 Motorist Implied Consent Law as defined in ORS 801.010, for a person who  
22 is under 21 years of age, any amount of alcohol in the blood constitutes being  
23 under the influence of intoxicating liquor.

24 “(4) Percent by weight of alcohol in the blood shall be based upon grams  
25 of alcohol per 100 milliliters of blood or based upon grams of alcohol per 210  
26 liters of breath.

27 **“(5) ORS 813.010 (1)(b) may not be construed to limit the**  
28 **admissibility of any evidence of the amount of alcohol in a person’s**  
29 **blood as shown by chemical analysis of the person’s breath or blood,**  
30 **in any civil or criminal action, suit or proceeding arising out of the**

1 **acts committed by the person driving a vehicle while under the influ-**  
2 **ence of intoxicants.**

3 **“SECTION 6.** ORS 163.118 is amended to read:

4 “163.118. (1) Criminal homicide constitutes manslaughter in the first de-  
5 gree when:

6 “(a) It is committed recklessly under circumstances manifesting extreme  
7 indifference to the value of human life;

8 “(b) It is committed intentionally by a defendant under the influence of  
9 extreme emotional disturbance as provided in ORS 163.135, which constitutes  
10 a mitigating circumstance reducing the homicide that would otherwise be  
11 murder to manslaughter in the first degree and need not be proved in any  
12 prosecution;

13 “(c) A person recklessly causes the death of a child under 14 years of age  
14 or a dependent person, as defined in ORS 163.205, and:

15 “(A) The person has previously engaged in a pattern or practice of assault  
16 or torture of the victim or another child under 14 years of age or a dependent  
17 person; or

18 “(B) The person causes the death by neglect or maltreatment, as defined  
19 in ORS 163.115; or

20 “(d) It is committed recklessly or with criminal negligence by a person  
21 operating a motor vehicle while under the influence of intoxicants in vio-  
22 lation of ORS 813.010 and:

23 “(A) The person has at least three previous convictions for driving while  
24 under the influence of intoxicants under ORS 813.010, or its statutory  
25 counterpart, **as defined in section 2 of this 2020 Act**, in any jurisdiction,  
26 in the 10 years prior to the date of the current offense; or

27 “(B)(i) The person has a previous conviction for any of the crimes de-  
28 scribed in subsection (2) of this section, or their statutory counterparts, **as**  
29 **defined in section 2 of this 2020 Act**, in any jurisdiction; and

30 “(ii) The victim’s serious physical injury in the previous conviction was

1 caused by the person driving a motor vehicle.

2 “(2) The previous convictions to which subsection (1)(d)(B) of this section  
3 applies are:

4 “(a) Assault in the first degree under ORS 163.185;

5 “(b) Assault in the second degree under ORS 163.175; or

6 “(c) Assault in the third degree under ORS 163.165.

7 “(3) Manslaughter in the first degree is a Class A felony.

8 “(4) It is an affirmative defense to a charge of violating:

9 “(a) Subsection (1)(c)(B) of this section that the victim was a dependent  
10 person who was at least 18 years of age and was under care or treatment  
11 solely by spiritual means pursuant to the religious beliefs or practices of the  
12 dependent person or the guardian of the dependent person.

13 “(b) Subsection (1)(d)(B) of this section that the defendant was not under  
14 the influence of intoxicants at the time of the conduct that resulted in the  
15 previous conviction.

16 **SECTION 7.** ORS 163.149 is amended to read:

17 163.149. (1) Criminal homicide constitutes aggravated vehicular homicide  
18 when it is committed with criminal negligence, recklessly or recklessly under  
19 circumstances manifesting extreme indifference to the value of human life  
20 by a person operating a motor vehicle while under the influence of  
21 intoxicants in violation of ORS 813.010 and:

22 (a) The person has a previous conviction for any of the crimes described  
23 in subsection (2) of this section, or their statutory counterparts, **as defined**  
24 **in section 2 of this 2020 Act**, in any jurisdiction; and

25 (b) The victim’s death in the previous conviction was caused by the per-  
26 son driving a motor vehicle.

27 (2) The previous convictions to which subsection (1) of this section applies  
28 are:

29 (a) Manslaughter in the first degree under ORS 163.118;

30 (b) Manslaughter in the second degree under ORS 163.125; or

1 (c) Criminally negligent homicide under ORS 163.145.

2 (3) It is an affirmative defense to a prosecution under this section that  
3 the defendant was not under the influence of intoxicants at the time of the  
4 conduct that resulted in the previous conviction.

5 (4) Aggravated vehicular homicide is a Class A felony.

6 **“SECTION 8.** ORS 163.185 is amended to read:

7 “163.185. (1) A person commits the crime of assault in the first degree if  
8 the person:

9 “(a) Intentionally causes serious physical injury to another by means of  
10 a deadly or dangerous weapon;

11 “(b) Intentionally or knowingly causes serious physical injury to a child  
12 under six years of age;

13 “(c) Violates ORS 163.175 knowing that the victim is pregnant; or

14 “(d) Intentionally, knowingly or recklessly causes serious physical injury  
15 to another while operating a motor vehicle under the influence of intoxicants  
16 in violation of ORS 813.010 and:

17 “(A) The person has at least three previous convictions for driving while  
18 under the influence of intoxicants under ORS 813.010, or its statutory  
19 counterpart, **as defined in section 2 of this 2020 Act**, in any jurisdiction,  
20 in the 10 years prior to the date of the current offense; or

21 “(B)(i) The person has a previous conviction for any of the crimes de-  
22 scribed in subsection (2) of this section, or their statutory counterparts, **as**  
23 **defined in section 2 of this 2020 Act**, in any jurisdiction; and

24 “(ii) The victim’s death or serious physical injury in the previous con-  
25 viction was caused by the person driving a motor vehicle.

26 “(2) The previous convictions to which subsection (1)(d)(B) of this section  
27 apply are:

28 “(a) Manslaughter in the first degree under ORS 163.118;

29 “(b) Manslaughter in the second degree under ORS 163.125;

30 “(c) Criminally negligent homicide under ORS 163.145;



1       “(d) Assault in the first degree under this section;

2       “(e) Assault in the second degree under ORS 163.175; or

3       “(f) Assault in the third degree under ORS 163.165.

4       “(3) Assault in the first degree is a Class A felony.

5       “(4) It is an affirmative defense to a prosecution under subsection (1)(d)(B)  
6 of this section that the defendant was not under the influence of intoxicants  
7 at the time of the conduct that resulted in the previous conviction.

8       “**SECTION 9. This 2020 Act being necessary for the immediate**  
9 **preservation of the public peace, health and safety, an emergency is**  
10 **declared to exist, and this 2020 Act takes effect on its passage.”.**

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