

# Senate Bill 228

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases number of years between convictions for driving while under influence of intoxicants until person can qualify for diversion program.

## A BILL FOR AN ACT

1  
2 Relating to driving while under the influence of intoxicants diversion agreements; creating new  
3 provisions; and amending ORS 802.200 and 813.215.

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

5 **SECTION 1.** ORS 813.215 is amended to read:

6 813.215. A defendant is eligible for diversion if:

7 (1) The defendant had no charge of an offense of driving while under the influence of intoxicants  
8 or its statutory counterpart in any jurisdiction, other than the charge for the present offense,  
9 pending on the date the defendant filed the petition for a driving while under the influence of  
10 intoxicants diversion agreement;

11 (2) The defendant has not been convicted of an offense described in subsection (1) of this section  
12 within the period beginning [*10*] **15** years before the date of the commission of the present offense  
13 and ending on the date the defendant filed the petition for a driving while under the influence of  
14 intoxicants diversion agreement;

15 (3) The defendant was not participating in a driving while under the influence of intoxicants  
16 diversion program or in any similar alcohol or drug rehabilitation program, other than a program  
17 entered into as a result of the charge for the present offense, in this state or in any other jurisdic-  
18 tion on the date the defendant filed the petition for a driving while under the influence of  
19 intoxicants diversion agreement;

20 (4) The defendant did not participate in a diversion or rehabilitation program described in sub-  
21 section (3) of this section, other than a program entered into as a result of the charge for the  
22 present offense, within the period beginning [*10*] **15** years before the date of the commission of the  
23 present offense and ending on the date the defendant filed the petition for a driving while under the  
24 influence of intoxicants diversion agreement;

25 (5) The defendant had no charge of an offense of murder, manslaughter, criminally negligent  
26 homicide or assault that resulted from the operation of a motor vehicle pending in this state or in  
27 any other jurisdiction on the date the defendant filed the petition for a driving while under the in-  
28 fluence of intoxicants diversion agreement;

29 (6) The defendant has not been convicted of an offense described in subsection (5) of this section  
30 within the period beginning [*10*] **15** years before the date of the commission of the present offense

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and ending on the date the defendant filed the petition for a driving while under the influence of  
 2 intoxicants diversion agreement;

3 (7) The defendant did not have a commercial driver license at the time of the offense;

4 (8) The defendant was not operating a commercial motor vehicle at the time of the offense; and

5 (9) The present driving while under the influence of intoxicants offense did not involve an ac-  
 6 cident resulting in:

7 (a) Death of any person [*other than the defendant*]; or

8 (b) Physical injury as defined in ORS 161.015 to any person other than the defendant.

9 **SECTION 2. The amendments to ORS 813.215 by section 1 of this 2007 Act apply to per-**  
 10 **sons who, on or after the effective date of this 2007 Act, commit the subsequent offense for**  
 11 **which the person has filed a petition for a driving while under the influence of intoxicants**  
 12 **diversion agreement.**

13 **SECTION 3.** ORS 802.200 is amended to read:

14 802.200. In addition to any other records the Department of Transportation may establish, the  
 15 department is subject to the following provisions concerning records:

16 (1) The department shall maintain records concerning the titling of vehicles in this state. The  
 17 records under this subsection shall include the following:

18 (a) For vehicles issued a title by this state, the records shall identify the vehicle and contain  
 19 the following:

20 (A) The name of the vehicle owner and any security interest holders in order of priority, except  
 21 that a security interest holder need not be identified if the debtor who granted the interest is in the  
 22 business of selling vehicles and the vehicles constitute inventory held for sale;

23 (B) The name of any lessor of the vehicle;

24 (C) The vehicle description; and

25 (D) Whether a certificate of title was issued for the vehicle.

26 (b) If the vehicle is an antique vehicle that is reconstructed, the records shall indicate that the  
 27 vehicle is reconstructed.

28 (c) If the vehicle is a replica, the records shall indicate that the vehicle is a replica.

29 (d) Any other information concerning the titling of vehicles that the department considers con-  
 30 venient or appropriate.

31 (e) All odometer readings for a vehicle that are reported to the department under provisions of  
 32 the vehicle code.

33 (f) If the vehicle has been reported to the department as a totaled vehicle under the provisions  
 34 of ORS 819.012 or 819.014, the records shall indicate that the vehicle is a totaled vehicle unless the  
 35 reason for the report was theft and the vehicle has been recovered.

36 (2) If a vehicle that has been registered or titled in another jurisdiction is registered or titled  
 37 in this state, the department shall retain a record of any odometer readings shown on the title or  
 38 registration documents submitted to the department at the time of registration or title.

39 (3) Except as otherwise provided in ORS 826.003, the department shall maintain records con-  
 40 cerning the registration of vehicles required to be registered by the department. The records con-  
 41 cerning the registration of vehicles may be stored along with records concerning the titling of  
 42 vehicles. The records under this subsection shall include the following:

43 (a) For vehicles registered by the department, the records shall identify the vehicle and contain  
 44 the following:

45 (A) The registration plate number assigned by the department to the vehicle;

- 1 (B) The name of the vehicle owner;
- 2 (C) The vehicle description and vehicle identification number; and
- 3 (D) An indication that the vehicle is a totaled vehicle if it has been reported to the department  
4 as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report  
5 was theft and the vehicle has been recovered.
- 6 (b) Any other information concerning the registration of vehicles that the department considers  
7 convenient or appropriate.
- 8 (4) The department shall maintain separate records for the regulation of vehicle dealers. The  
9 records required under this subsection shall include the following information about persons issued  
10 dealer certificates:
- 11 (a) The person's application for a vehicle dealer certificate.
- 12 (b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.
- 13 (c) A numerical index according to the distinctive number assigned to each vehicle dealer.
- 14 (5) The department shall maintain a file on vehicles for which the title record is canceled under  
15 ORS 819.030. The records required under this subsection shall disclose the last registered owner of  
16 each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the  
17 canceled title record for each vehicle and the make and year model for each vehicle.
- 18 (6) The department shall maintain a record of each agreement or declaration under ORS 802.500  
19 and 802.520.
- 20 (7) The department shall maintain separate and comprehensive records of all transactions af-  
21 fecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.
- 22 (8) The department shall maintain suitable records of driver licenses and driver permits. The  
23 records required under this subsection shall include all of the following:
- 24 (a) An index by name and number.
- 25 (b) Supporting documentation of all licenses or driver permits issued.
- 26 (c) Every application for a driver license or driver permit.
- 27 (d) All licenses or driver permits that have been suspended or revoked.
- 28 (e) For each commercial driver license, the Social Security number of the person to whom the  
29 license is issued, or any other number or identifying information that the Secretary of the United  
30 States Department of Transportation determines appropriate to identify the person.
- 31 (9) The department shall maintain a two-part driving record consisting of an employment driving  
32 record and a nonemployment driving record for each person as required under this subsection. All  
33 of the following apply to the records required under this subsection:
- 34 (a) The department shall maintain driving records on:
- 35 (A) Every person who is granted driving privileges under a driver license, driver permit or a  
36 statutory grant of driving privileges under ORS 807.020;
- 37 (B) Every person whose driving privileges have been suspended, revoked or canceled under this  
38 vehicle code;
- 39 (C) Every person who has filed an accident report under ORS 811.725 or 811.730; and
- 40 (D) Every person who is required to provide future responsibility filings under ORS 806.200,  
41 806.220, 806.230 or 806.240.
- 42 (b) In addition to other information required by this paragraph, the employment driving record  
43 shall include all reports of drug test results that are made to the department under ORS 825.410.  
44 Notwithstanding any other provision of law, release of the portion of the employment driving record  
45 that shows drug test results reported under ORS 825.410 is permitted only in accordance with ORS

1 802.202. The employment driving record shall also include all motor vehicle accidents that the per-  
2 son is required to report under ORS 811.720, all suspensions of driving privileges required to be  
3 placed on the record under ORS 809.280, all suspensions of the person's commercial driver license  
4 that result from operation or use of a commercial motor vehicle and all convictions of the person  
5 for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation  
6 or suspension of driving privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include  
7 only such accidents, suspensions and convictions that occur while the person is driving a motor  
8 vehicle:

9 (A) In the course of the person's employment when the person is employed by another for the  
10 principal purpose of driving a motor vehicle;

11 (B) Carrying persons or property for compensation;

12 (C) In the course of the person's employment in the collection, transportation or delivery of mail  
13 if the vehicle is government owned or marked for the collection, transportation or delivery of mail  
14 in accordance with government rules;

15 (D) That is an authorized emergency vehicle;

16 (E) That is a commercial motor vehicle; or

17 (F) In the course of the person's employment with a federal, state or local government in a  
18 public works project involving repair or maintenance of water, sewer or road systems.

19 (c) The nonemployment driving record shall include the person's:

20 (A) Motor vehicle accidents that the person is required to report under ORS 811.720, other than  
21 the motor vehicle accidents that are included on the person's employment driving record;

22 (B) Suspensions, cancellations and revocations of licenses, permits and driving privileges;

23 (C) Convictions for violation of the motor vehicle laws other than those included in the em-  
24 ployment driving record including, for each violation of ORS 811.100 or 811.111, the speed at which  
25 the person was convicted of traveling and the posted speed, the speed limit or the speed that con-  
26 stitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

27 (D) Diversion agreements entered into under ORS 813.220 within the preceding [10] 15 years.

28 (d) The department may record other entries to indicate correspondence, interviews, partic-  
29 ipation in driver improvement programs or other matters concerning the status of the driving priv-  
30 ileges of the person.

31 (e) When a person from another jurisdiction applies for a driver license or permit issued by this  
32 state, the department shall request a copy of the person's driving record from the other jurisdiction.  
33 At the time the person is issued a license in Oregon, the record from the other jurisdiction shall  
34 become part of the driver's record in this state with the same force and effect as though entered  
35 on the driver's record in this state in the original instance. The department by rule may specify  
36 methods for converting entries from out-of-state records for use in Oregon.

37 (f) When a suspension of a driver permit, driver license or other driving privilege is placed on  
38 the driving record under ORS 809.280 for failure to appear in court on a traffic crime, the depart-  
39 ment shall note on the record that the suspension was for failure to appear in court and shall also  
40 note the offense charged against the person on which the person failed to appear.

41 (g) The department, in consultation with the Department of State Police, shall devise and im-  
42 plement a method of noting suspensions and revocations of driving privileges on the record in such  
43 a way that police agencies can determine directly from the record what class of offense, as provided  
44 by law, is committed by a person who drives in violation of the suspension or revocation. If the  
45 department and the Department of State Police devise a mutually agreeable alternative method of

1 informing police agencies of the nature of a suspension or revocation and the consequences of its  
2 violation, the implementation of that method shall satisfy the duty of the department under this  
3 paragraph.

4 (10) The Department of Transportation shall maintain records of judgments or convictions sent  
5 to the department under ORS 810.375.

6 (11) The department shall maintain accident reports filed with the department under ORS  
7 810.460 and 811.725 to 811.735.

8 (12) The department shall maintain records of bank checks or money orders returned under ORS  
9 802.110.

10 (13) The department shall maintain records of trip permits issued by the department under ORS  
11 803.600, as provided under this subsection. The records required by this subsection shall include the  
12 following:

13 (a) A description of the vehicle sufficient to identify the vehicle.

14 (b) The person to whom the permit was issued.

15 (c) When the permit was issued.

16 (d) The type of permit issued.

17 (e) For registration weight trip permits, the maximum allowable registration weight permitted  
18 for operation under the permit.

19 (f) Any other information the department determines appropriate or convenient.

20 **SECTION 4. The amendments to ORS 802.200 by section 3 of this 2007 Act apply to re-**  
21 **ords that are maintained by the Department of Transportation on or after the effective date**  
22 **of this 2007 Act.**

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