

A-Engrossed
Senate Bill 298

Ordered by the Senate April 2
Including Senate Amendments dated April 2

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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.

Grants exception to permanent revocation of driving privileges to persons who are convicted of misdemeanor driving while under the influence of intoxicants and are operating nonmotorized vehicles.

A BILL FOR AN ACT

1
2 Relating to permanent revocation of driving privileges for driving while under the influence of
3 intoxicants; amending ORS 809.235.

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

5 **SECTION 1.** ORS 809.235 is amended to read:

6 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
7 privileges be permanently revoked if the person is convicted of any degree of murder or of
8 manslaughter in the first degree and the court finds that the person intentionally used a motor ve-
9 hicle as a dangerous weapon resulting in the death of the victim.

10 (b) The court shall order that a person's driving privileges be permanently revoked if the
11 person:

12 (A) Is convicted of felony driving while under the influence of intoxicants in violation of ORS
13 813.010; or

14 (B) *[If the person]* Is convicted of misdemeanor driving while under the influence of intoxicants
15 in violation of ORS 813.010 or its statutory counterpart in any other jurisdiction for a third or
16 subsequent time **and at least three of the convictions are for offenses committed while the**
17 **person was operating a motor vehicle. The person shall have the burden of proving that a**
18 **prior conviction for violating ORS 813.010 or its statutory counterpart in any other jurisdic-**
19 **tion was committed while operating a nonmotorized vehicle.**

20 (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this sec-
21 tion may file a petition in the circuit court of the county in which the person resides for an order
22 restoring the person's driving privileges. A petition may be filed under this subsection no sooner
23 than 10 years after the person is:

24 (A) Released on parole or post-prison supervision; or

25 (B) Sentenced to probation if the probation is not revoked and the person is thereafter dis-
26 charged without the imposition of a sentence of imprisonment.

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 (b) The district attorney of the county in which the person resides shall be named and served
2 as the respondent in the petition.

3 (3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this
4 section. In determining whether to grant the petition, the court shall consider:

5 (a) The nature of the offense for which driving privileges were revoked.

6 (b) The degree of violence involved in the offense.

7 (c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
8 conviction that resulted in the revocation.

9 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
10 chological evaluation ordered by the court to determine whether the person is presently a threat to
11 the safety of the public.

12 (e) Any other relevant factors.

13 (4) If, after a hearing described in subsection (3) of this section, the court is satisfied by clear
14 and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a
15 threat to the safety of the public, the court shall order the petitioner's driving privileges restored.
16
