

House Bill 2237

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Transportation)

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 penalties for driving while under influence of intoxicants if person has blood alcohol content of 0.15 percent or more.

A BILL FOR AN ACT

1
2 Relating to enhanced penalties for persons driving while under the influence of intoxicants with
3 blood alcohol content of 0.15 percent or higher; amending ORS 813.010 and 813.020.

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

5 **SECTION 1.** ORS 813.010 is amended to read:

6 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if
7 the person drives a vehicle while the person:

8 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by
9 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

10 (b) Is under the influence of intoxicating liquor, a controlled substance or an inhalant; or

11 (c) Is under the influence of any combination of intoxicating liquor, an inhalant and a controlled
12 substance.

13 (2) A person may not be convicted of driving while under the influence of intoxicants on the
14 basis of being under the influence of a controlled substance or an inhalant unless the fact that the
15 person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory
16 instrument and is either proved at trial or is admitted by the person through a guilty plea.

17 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-
18 dition to this section.

19 (4) Except as provided in subsection (5) of this section, the offense described in this section,
20 driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon
21 any premises open to the public.

22 (5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense
23 was committed in a motor vehicle and the defendant has been convicted, at least three times in the
24 10 years prior to the date of the current offense, of any of the following offenses in any combination:

25 (A) Driving while under the influence of intoxicants in violation of:

26 (i) This section; or

27 (ii) The statutory counterpart to this section in another jurisdiction.

28 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
29 impaired driving or operation of a vehicle, an aircraft or a boat due to the use of intoxicating liquor,
30 a controlled substance, an inhalant or any combination thereof.

31 (C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a

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 boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol con-
 2 tent.

3 (b) For the purposes of paragraph (a) of this subsection, a conviction for a driving offense in
 4 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
 5 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
 6 of age or older does not constitute a prior conviction.

7 (6) In addition to any other sentence that may be imposed, the court shall impose a fine on a
 8 person convicted of driving while under the influence of intoxicants as follows:

9 (a) For a person's first conviction, a minimum of \$1,000.

10 (b) For a person's second conviction, a minimum of \$1,500.

11 (c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sen-
 12 tenced to a term of imprisonment.

13 **(d) For any conviction, if the person has 0.15 percent or more by weight of alcohol in the**
 14 **blood of the person as shown by chemical analysis of the breath or blood of the person made**
 15 **under ORS 813.100, 813.140 or 813.150, a minimum of \$2,500.**

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

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

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

21 **SECTION 2.** ORS 813.020 is amended to read:

22 813.020. When a person is convicted of driving while under the influence of intoxicants in vio-
 23 lation of ORS 813.010, a court shall comply with the following in addition to any fine or other pen-
 24 alty imposed upon the person under ORS 813.010:

25 (1) The court shall require the person to:

26 (a) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under
 27 ORS 813.010; and

28 (b) Complete a screening interview and a treatment program as provided in ORS 813.021.

29 (2) The court must impose and not suspend execution of a sentence requiring the person:

30 (a) Either to serve at least 48 hours' imprisonment, which shall be served consecutively unless
 31 justice requires otherwise, or to perform community service for times specified by the court under
 32 ORS 137.129.

33 **(b) To serve at least 72 consecutive hours' imprisonment if the person has a blood alcohol**
 34 **content of 0.15 percent or more as shown by chemical analysis of the breath or blood of the**
 35 **person made under ORS 813.100, 813.140 or 813.150.**

36 (3) For purposes of [this] subsection (2) of this section:

37 (a) A court may provide for the imprisonment to be served in jail, minimum security facilities
 38 or inpatient rehabilitation or treatment centers.

39 (b) Whenever the judge provides for the mandatory imprisonment to be served other than con-
 40 secutively, the judgment must specifically so provide and the judge must state the reasons in writ-
 41 ing.

42 [(3)] (4) In a county that has a victim impact program a court may require the person to attend
 43 a victim impact treatment session. If the court requires attendance under this section, the court may
 44 require the defendant to pay a reasonable fee to the victim impact program to offset the cost of the
 45 defendant's participation. The fee shall be established for each county by the victim impact panel

1 coordinator and steering committee of that county and shall be not less than \$5 or more than \$50.

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