

B-Engrossed
House Bill 2331

Ordered by the Senate May 20
Including House Amendments dated March 25 and Senate Amendments
dated May 20

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon District Attorneys' Association)

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.

Imposes additional eligibility requirement on defendant petitioning to enter into driving while under the influence of intoxicants diversion agreement for second or subsequent time.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants diversion; creating new provisions; and
3 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. (1) A defendant is eligible for diversion if the defendant meets all of the following con-
7 ditions:

8 (a) On the date the defendant filed the petition for a driving while under the influence of
9 intoxicants diversion agreement, the defendant had no charge, other than the charge for the present
10 offense, pending for:

11 (A) An offense of driving while under the influence of intoxicants in violation of:

12 (i) ORS 813.010; or

13 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction;

14 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
15 impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an
16 inhalant or any combination thereof; or

17 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
18 blood alcohol content above that jurisdiction's permissible blood alcohol content.

19 (b) The defendant has not been convicted of an offense described in paragraph (a) of this sub-
20 section within the period beginning [10] 15 years before the date of the commission of the present
21 offense and ending on the date the defendant filed the petition for a driving while under the influ-
22 ence of intoxicants diversion agreement.

23 (c) The defendant has not been convicted of a felony offense described in ORS 813.010 (5)(a).

24 (d) The defendant was not participating in a driving while under the influence of intoxicants
25 diversion program or in any similar alcohol or drug rehabilitation program, other than a program
26 entered into as a result of the charge for the present offense, in this state or in another jurisdiction
27 on the date the defendant filed the petition for a driving while under the influence of intoxicants

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 diversion agreement.

2 (e) The defendant did not participate in a diversion or rehabilitation program described in par-
3 agraph (d) of this subsection, other than a program entered into as a result of the charge for the
4 present offense, within the period beginning [10] 15 years before the date of the commission of the
5 present offense and ending on the date the defendant filed the petition for a driving while under the
6 influence of intoxicants diversion agreement.

7 (f) The defendant had no charge of an offense of aggravated vehicular homicide or of murder,
8 manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor
9 vehicle pending in this state or in another jurisdiction on the date the defendant filed the petition
10 for a driving while under the influence of intoxicants diversion agreement.

11 (g) The defendant has not been convicted of an offense described in paragraph (f) of this sub-
12 section within the period beginning [10] 15 years before the date of the commission of the present
13 offense and ending on the date the defendant filed the petition for a driving while under the influ-
14 ence of intoxicants diversion agreement.

15 (h) The defendant did not hold a commercial driver license on the date of the commission of the
16 offense.

17 (i) The defendant was not operating a commercial motor vehicle at the time of the offense.

18 (j) The present driving while under the influence of intoxicants offense did not involve an acci-
19 dent resulting in:

20 (A) Death of any person; or

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

22 (2) For the purposes of subsection (1)(a) of this section, a conviction for a driving offense in
23 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
24 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
25 of age or older does not constitute a prior conviction.

26 **(3) A defendant is eligible for a second or subsequent diversion if the defendant meets**
27 **all of the conditions of subsection (1) of this section and the defendant has not been con-**
28 **vinced of any other criminal offense involving a motor vehicle within the period beginning**
29 **15 years before the date of the commission of the present offense and ending on the date the**
30 **defendant filed the petition for the second or subsequent driving while under the influence**
31 **of intoxicants diversion agreement.**

32 **SECTION 2.** ORS 802.200, as amended by section 8, chapter 1, Oregon Laws 2008, is amended
33 to read:

34 802.200. In addition to any other records the Department of Transportation may establish, the
35 department is subject to the following provisions concerning records:

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

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

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

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

44 (C) The vehicle description; and

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

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

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

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

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

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

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

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

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

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

21 (B) The name of the vehicle owner;

22 (C) The vehicle description and vehicle identification number; and

23 (D) An indication that the vehicle is a totaled vehicle if it has been reported to the department
24 as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report
25 was theft and the vehicle has been recovered.

26 (b) Any other information concerning the registration of vehicles that the department considers
27 convenient or appropriate.

28 (4) The department shall maintain separate records for the regulation of vehicle dealers. The
29 records required under this subsection shall include the following information about persons issued
30 dealer certificates:

31 (a) The person's application for a vehicle dealer certificate.

32 (b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.

33 (c) A numerical index according to the distinctive number assigned to each vehicle dealer.

34 (5) The department shall maintain a file on vehicles for which the title record is canceled under
35 ORS 819.030. The records required under this subsection shall disclose the last registered owner of
36 each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the
37 canceled title record for each vehicle and the make and year model for each vehicle.

38 (6) The department shall maintain a record of each agreement or declaration under ORS 802.500
39 and 802.520.

40 (7) The department shall maintain separate and comprehensive records of all transactions af-
41 fecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.

42 (8) The department shall maintain suitable records of driver licenses, driver permits and iden-
43 tification cards. The records required under this subsection shall include all of the following:

44 (a) An index by name and number.

45 (b) Supporting documentation of all driver licenses, driver permits or identification cards issued.

1 (c) Every application for a driver license, driver permit or identification card.

2 (d) All driver licenses or driver permits that have been suspended or revoked.

3 (e) For each driver license, driver permit or identification card, the Social Security number of
4 the person to whom the driver license, driver permit or identification card is issued or proof that
5 the person is not eligible for a Social Security number.

6 (f) For each commercial driver license, the Social Security number of the person to whom the
7 license is issued, or any other number or identifying information that the Secretary of the United
8 States Department of Transportation determines appropriate to identify the person.

9 (9) The Department of Transportation shall maintain a two-part driving record consisting of an
10 employment driving record and a nonemployment driving record for each person as required under
11 this subsection. All of the following apply to the records required under this subsection:

12 (a) The department shall maintain driving records on:

13 (A) Every person who is granted driving privileges under a driver license, driver permit or a
14 statutory grant of driving privileges under ORS 807.020;

15 (B) Every person whose driving privileges have been suspended, revoked or canceled under this
16 vehicle code;

17 (C) Every person who has filed an accident report under ORS 811.725 or 811.730; and

18 (D) Every person who is required to provide future responsibility filings under ORS 806.200,
19 806.220, 806.230 or 806.240.

20 (b) In addition to other information required by this paragraph, the employment driving record
21 shall include all reports of drug test results that are made to the department under ORS 825.410.
22 Notwithstanding any other provision of law, release of the portion of the employment driving record
23 that shows drug test results reported under ORS 825.410 is permitted only in accordance with ORS
24 802.202. The employment driving record shall also include all motor vehicle accidents that the per-
25 son is required to report under ORS 811.720, all suspensions of driving privileges required to be
26 placed on the record under ORS 809.280, all suspensions of the person's commercial driver license
27 that result from operation or use of a commercial motor vehicle and all convictions of the person
28 for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation
29 or suspension of driving privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include
30 only such accidents, suspensions and convictions that occur while the person is driving a motor
31 vehicle:

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

34 (B) Carrying persons or property for compensation;

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

38 (D) That is an authorized emergency vehicle;

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

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

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

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

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

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

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

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

9 (e) When a person from another jurisdiction applies for a driver license or driver permit issued
10 by this state, the department shall request a copy of the person's driving record from the other ju-
11 risdiction. At the time the person is issued a license in Oregon, the record from the other jurisdic-
12 tion shall become part of the driver's record in this state with the same force and effect as though
13 entered on the driver's record in this state in the original instance. The department by rule may
14 specify methods for converting entries from out-of-state records for use in Oregon.

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

19 (g) The Department of Transportation, in consultation with the Department of State Police, shall
20 devise and implement a method of noting suspensions and revocations of driving privileges on the
21 record in such a way that police agencies can determine directly from the record what class of of-
22 fense, as provided by law, is committed by a person who drives in violation of the suspension or
23 revocation. If the Department of Transportation and the Department of State Police devise a mutu-
24 ally agreeable alternative method of informing police agencies of the nature of a suspension or re-
25 vocation and the consequences of its violation, the implementation of that method shall satisfy the
26 duty of the Department of Transportation under this paragraph.

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

29 (11) The department shall maintain accident reports filed with the department under ORS
30 810.460 and 811.725 to 811.735.

31 (12) The department shall maintain records of bank checks or money orders returned under ORS
32 802.110.

33 (13) The department shall maintain records of trip permits issued by the department under ORS
34 803.600, as provided under this subsection. The records required by this subsection shall include the
35 following:

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

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

38 (c) When the permit was issued.

39 (d) The type of permit issued.

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

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

43 **SECTION 3. (1) The amendments to ORS 813.215 by section 1 of this 2009 Act apply to**
44 **diversion agreements entered into on or after the effective date of this 2009 Act.**

45 **(2) The amendments to ORS 802.200 by section 2 of this 2009 Act apply to diversion**

1 **agreements included on a person's nonemployment driving record before, on or after the ef-**
2 **fective date of this 2009 Act.**

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