

HOUSE AMENDMENTS TO HOUSE BILL 2331

By COMMITTEE ON JUDICIARY

March 25

1 On page 1 of the printed bill, delete lines 5 through 31.

2 On page 2, delete lines 1 through 21 and insert:

3 “**SECTION 1.** ORS 813.215 is amended to read:

4 “813.215. (1) A defendant is eligible for diversion if the defendant meets all of the following
5 conditions:

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

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

10 “(i) ORS 813.010; or

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

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

15 “(C) A driving offense in another jurisdiction that involved operating a vehicle while having a
16 blood alcohol content above that jurisdiction’s permissible blood alcohol content.

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

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

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

27 “(e) The defendant did not participate in a diversion or rehabilitation program described in
28 paragraph (d) of this subsection, other than a program entered into as a result of the charge for the
29 present offense, within the period beginning [10] 15 years before the date of the commission of the
30 present offense and ending on the date the defendant filed the petition for a driving while under the
31 influence of intoxicants diversion agreement.

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

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

5 “(h) The defendant did not hold a commercial driver license on the date of the commission of
6 the offense.

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

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

10 “(A) Death of any person; or

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

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

16 **“(3) A defendant is eligible for a second or subsequent diversion if the defendant meets
17 all of the conditions of subsection (1) of this section and the defendant has not been con-
18 victed of any other criminal offense within the period beginning 15 years before the date of
19 the commission of the present offense and ending on the date the defendant filed the petition
20 for the second or subsequent driving while under the influence of intoxicants diversion
21 agreement.”.**

22 On page 4, line 40, restore the bracketed material and delete “10” and insert “15”.

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