

House Bill 2331

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 **as introduced**.

Restricts eligibility of defendants to enter into driving while under the influence of intoxicants diversion agreements.

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 years before the date of the commission of the present offense*
21 *and ending on the date the defendant filed the petition for a driving while under the influence of*
22 *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*] **has not participated** in a driving while under the in-
25 fluence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program,
26 other than a program entered into as a result of the charge for the present offense, in this state or
27 in another jurisdiction [*on the date the defendant filed the petition for a driving while under the in-*
28 *fluence of intoxicants diversion agreement*].

29 [*e*] The defendant did not participate in a diversion or rehabilitation program described in para-
30 graph (d) of this subsection, other than a program entered into as a result of the charge for the present
31 offense, within the period beginning 10 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 [(f)] (e) The defendant had no charge of an offense of aggravated vehicular homicide or of mur-
 4 der, manslaughter, criminally negligent homicide or assault that resulted from the operation of a
 5 motor vehicle pending in this state or in another jurisdiction on the date the defendant filed the
 6 petition for a driving while under the influence of intoxicants diversion agreement.

7 [(g)] (f) The defendant has not been convicted of an offense described in paragraph [(f)] (e) of
 8 this subsection within the period beginning 10 years before the date of the commission of the present
 9 offense and ending on the date the defendant filed the petition for a driving while under the influ-
 10 ence of intoxicants diversion agreement.

11 [(h)] (g) The defendant did not hold a commercial driver license on the date of the commission
 12 of the offense.

13 [(i)] (h) The defendant was not operating a commercial motor vehicle at the time of the offense.

14 [(j)] (i) The present driving while under the influence of intoxicants offense did not involve an
 15 accident resulting in:

16 (A) Death of any person; or

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

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

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

24 802.200. In addition to any other records the Department of Transportation may establish, the
 25 department is subject to the following provisions concerning records:

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

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

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

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

34 (C) The vehicle description; and

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

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

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

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

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

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

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

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

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

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

11 (B) The name of the vehicle owner;

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

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

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

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

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

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

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

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

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

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

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

34 (a) An index by name and number.

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

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

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

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

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

44 (9) The Department of Transportation shall maintain a two-part driving record consisting of an
 45 employment driving record and a nonemployment driving record for each person as required under

1 this subsection. All of the following apply to the records required under this subsection:

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

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

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

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

8 (D) Every person who is required to provide future responsibility filings under ORS 806.200,
9 806.220, 806.230 or 806.240.

10 (b) In addition to other information required by this paragraph, the employment driving record
11 shall include all reports of drug test results that are made to the department under ORS 825.410.
12 Notwithstanding any other provision of law, release of the portion of the employment driving record
13 that shows drug test results reported under ORS 825.410 is permitted only in accordance with ORS
14 802.202. The employment driving record shall also include all motor vehicle accidents that the per-
15 son is required to report under ORS 811.720, all suspensions of driving privileges required to be
16 placed on the record under ORS 809.280, all suspensions of the person's commercial driver license
17 that result from operation or use of a commercial motor vehicle and all convictions of the person
18 for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation
19 or suspension of driving privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include
20 only such accidents, suspensions and convictions that occur while the person is driving a motor
21 vehicle:

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

24 (B) Carrying persons or property for compensation;

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

28 (D) That is an authorized emergency vehicle;

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

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

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

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

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

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

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

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

44 (e) When a person from another jurisdiction applies for a driver license or driver permit issued
45 by this state, the department shall request a copy of the person's driving record from the other ju-

1 jurisdiction. At the time the person is issued a license in Oregon, the record from the other jurisdic-
 2 tion shall become part of the driver's record in this state with the same force and effect as though
 3 entered on the driver's record in this state in the original instance. The department by rule may
 4 specify methods for converting entries from out-of-state records for use in Oregon.

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

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

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

19 (11) The department shall maintain accident reports filed with the department under ORS
 20 810.460 and 811.725 to 811.735.

21 (12) The department shall maintain records of bank checks or money orders returned under ORS
 22 802.110.

23 (13) The department shall maintain records of trip permits issued by the department under ORS
 24 803.600, as provided under this subsection. The records required by this subsection shall include the
 25 following:

- 26 (a) A description of the vehicle sufficient to identify the vehicle.
- 27 (b) The person to whom the permit was issued.
- 28 (c) When the permit was issued.
- 29 (d) The type of permit issued.
- 30 (e) For registration weight trip permits, the maximum allowable registration weight permitted
 31 for operation under the permit.
- 32 (f) Any other information the department determines appropriate or convenient.

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

35 **(2) The amendments to ORS 802.200 by section 2 of this 2009 Act apply to diversion**
 36 **agreements included on a person's nonemployment driving record before, on or after the ef-**
 37 **fective date of this 2009 Act.**
