

Enrolled
House Bill 2426

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to penalties for driving while under the influence of intoxicants; creating new provisions; and amending ORS 813.010.

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

SECTION 1. ORS 813.010 is amended to read:

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

- (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;
- (b) Is under the influence of intoxicating liquor, a controlled substance or an inhalant; or
- (c) Is under the influence of any combination of intoxicating liquor, an inhalant and a controlled substance.

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

(3) A person convicted of the offense described in this section is subject to ORS 813.020 in addition to this section.

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

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

- (A) Driving while under the influence of intoxicants in violation of:
 - (i) This section; or
 - (ii) The statutory counterpart to this section in another jurisdiction.

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

(C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(b) For the purposes of paragraph (a) of this subsection, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content

that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(6) In addition to any other sentence that may be imposed, the court shall impose [*a fine*] **one or more of the following fines** on a person convicted of driving while under the influence of intoxicants as follows:

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

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

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

(d) For a person who drives a vehicle while the person has 0.15 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

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

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

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

SECTION 2. The amendments to ORS 813.010 by section 1 of this 2009 Act apply to offenses of driving while under the influence of intoxicants committed on or after the effective date of this 2009 Act.

Passed by House March 25, 2009

Received by Governor:

Repassed by House June 4, 2009

.....M.,....., 2009

Approved:

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Chief Clerk of House

.....M.,....., 2009

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Speaker of House

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Governor

Passed by Senate June 3, 2009

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2009

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Secretary of State