

House Bill 2491

Sponsored by Representative CAMERON; Representative BARKER

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**.

Expands offense of driving while under influence of intoxicants to include any substance that adversely affects person's physical or mental faculties to noticeable or perceptible degree. Defines "intoxicant."

A BILL FOR AN ACT

1
2 Relating to substances that constitute an intoxicant when operating a vehicle; creating new pro-
3 visions; and amending ORS 801.272, 802.240, 807.060, 807.240, 807.250, 807.252, 809.235, 809.265,
4 809.730, 813.010, 813.021, 813.040, 813.100, 813.120, 813.131, 813.140, 813.150, 813.200, 813.215,
5 813.220, 813.260, 813.270, 813.300, 813.420, 813.430, 813.470, 813.500, 813.510, 813.520 and 821.250.

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

7 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of the Oregon Vehicle**
8 **Code.**

9 **SECTION 2. "Intoxicant" means:**

10 (1) **Alcohol;**

11 (2) **Controlled substances;**

12 (3) **Inhalants; or**

13 (4) **Any other substance that adversely affects a person's physical or mental faculties to**
14 **a noticeable or perceptible degree.**

15 **SECTION 3. ORS 801.272 is amended to read:**

16 801.272. "Field sobriety test" means a physical or mental test, approved by the Department of
17 State Police by rule after consultation with the Department of Public Safety Standards and Training,
18 that enables a police officer or trier of fact to screen for or detect probable impairment from
19 [*intoxicating liquor, a controlled substance, an inhalant or any combination of intoxicating liquor, an*
20 *inhalant and a controlled substance*] **an intoxicant or a combination of intoxicants.**

21 **SECTION 4. ORS 802.240 is amended to read:**

22 802.240. (1) In all actions, suits or criminal proceedings when the title to, or right of possession
23 of, any vehicle is involved, the record of title, as it appears in the files and records of the Depart-
24 ment of Transportation, is prima facie evidence of ownership or right to possession of the vehicle.
25 As used in this section, the record of title does not include records of salvage titles unless the re-
26 cord itself is the salvage title. Proof of the ownership or right to possession of a vehicle shall be
27 made by means of any of the following methods:

28 (a) The original certificate of title as provided under ORS 803.010.

29 (b) A copy, certified by the department, of the title record of the vehicle as the record appears
30 in the files and records of the department.

31 (2) Extrinsic evidence of authenticity is not required as a condition precedent to the admission

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 of a copy of a document relating to the privilege of any person to drive a motor vehicle authorized
 2 by law to be filed and actually filed in the records of the department if the copy bears a seal pur-
 3 porting to be that of the department and is certified as a true copy by original or facsimile signature
 4 of a person purporting to be an officer or employee of the department. This subsection applies to
 5 copies of a data compilation in any form. Copies of documents certified in accordance with this
 6 subsection constitute prima facie evidence of the existence of the facts stated therein.

7 (3) A certified copy of a person's driving record, as maintained by the department:

8 (a) May be admitted as evidence in any hearing or proceeding under ORS 813.200 to 813.270.

9 (b) Is prima facie evidence that the person named therein was duly convicted of each offense
 10 shown by the record.

11 (c) Is prima facie evidence that the person named therein is participating in or has participated
 12 in a driving under the influence of intoxicants diversion program or in any similar [*alcohol or*
 13 *drug*] **intoxicant** rehabilitation program in this state or in any other jurisdiction if the record shows
 14 that the person has participated in such a program.

15 (4) Records and actions described in this subsection [*shall*] **may** not be referred to in any way
 16 or admitted into evidence or be any evidence of the negligence or due care of any party at the trial
 17 of any action at law to recover damages. This subsection applies to all of the following:

18 (a) The report required following an accident.

19 (b) Any action taken by the department to revoke or suspend a driver license or driver permit
 20 or taken by the department under the financial responsibility requirements of the vehicle code or
 21 the findings, if any, of the department upon which such action of the department is based.

22 (c) Any deposit of security required under the financial responsibility requirements of the vehi-
 23 cle code.

24 (5) Except as provided in this subsection, the accident reports filed with the department under
 25 ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report and no
 26 such report shall be used as evidence in any trial, civil or criminal, arising out of an accident. The
 27 following uses are allowable under this subsection:

28 (a) The certificate issued by the department under ORS 802.220 to show whether or not an ac-
 29 cident report has been made to the department shall be used solely to prove a compliance or failure
 30 to comply with the requirements that the accident report be made to the department.

31 (b) An accident report submitted under ORS 811.725 or 811.735 may be used in an administrative
 32 hearing or an appeal from such hearing to support any suspension of driving privileges for:

33 (A) Failure to make reports required under ORS 811.725 or 811.735.

34 (B) Failure to comply with financial responsibility requirements or failure to comply with future
 35 responsibility filings.

36 (6) A photocopy, facsimile copy, digital or electronic copy of an application for perfection of a
 37 security interest by notation on a title under ORS 803.097 that is certified by the department is
 38 proof of the date of perfection of the security interest unless the date is invalid as provided under
 39 ORS 803.097.

40 (7) A report filed by a physician or health care provider under ORS 807.710 is confidential and
 41 may not be admitted as evidence in any civil or criminal action. A report described in this sub-
 42 section may be used in an administrative hearing or an appeal from an administrative hearing in
 43 which an issue is the qualification of a person to operate a motor vehicle.

44 **SECTION 5.** ORS 807.060 is amended to read:

45 807.060. The Department of Transportation may not grant driving privileges to a person under

1 a license if the person is not eligible under this section. The following are not eligible for a license:

2 (1) A person under 16 years of age.

3 (2)(a) A person under 18 years of age who is not an emancipated minor unless the application
4 of the person is signed by the person’s mother, father or legal guardian. A person who signs an ap-
5 plication under this paragraph may have the driving privileges canceled as provided under ORS
6 809.320.

7 (b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

8 (3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible
9 for a commercial driver license.

10 (4) A person that the department determines has a problem condition involving [*alcohol,*
11 *inhalants or controlled substances*] **intoxicants** as described under ORS 813.040.

12 (5) A person the department reasonably believes has a mental or physical condition or impair-
13 ment that affects the person’s ability to safely operate a motor vehicle upon the highways.

14 (6) A person the department reasonably believes is unable to understand highway signs that
15 warn, regulate or direct traffic.

16 (7) A person who is required to make future responsibility filings but has not made filings as
17 required.

18 (8) A person who cannot be issued a license under the Driver License Compact under ORS
19 802.540.

20 (9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose
21 driving privileges are currently under suspension or revocation in any other state upon grounds
22 which, if committed in this state, would be grounds for the suspension or revocation of the driving
23 privileges of the person.

24 (10) A person who has been declared a habitual offender under ORS 809.640. A person declared
25 not eligible to be licensed under this subsection may become eligible by having eligibility restored
26 under ORS 809.640.

27 (11) A person whose driving privileges are canceled in this state under ORS 809.310 until the
28 person is eligible under ORS 809.310.

29 (12) A person while the person’s driving privileges are revoked in this state.

30 (13) A person during a period when the person’s driving privileges are suspended in this state.

31 (14) A person who holds a current out-of-state license or driver permit or a valid Oregon license
32 or driver permit. A person who is not eligible under this subsection may become eligible by sur-
33 rendering the license, driver permit or out-of-state license or driver permit to the department before
34 issuance of the license. Nothing in this subsection authorizes a person to continue to operate a
35 motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS
36 807.062 to obtain an Oregon license or permit.

37 (15) A person who has not complied with the requirements and responsibilities created by cita-
38 tion for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530
39 authorizes the department to withhold issuance of a license.

40 **SECTION 6.** ORS 807.240 is amended to read:

41 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
42 in a manner consistent with this section. A hardship driver permit grants the driving privileges
43 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
44 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
45 a license. The following apply to a hardship driver permit:

1 (1) The department may only issue a permit to a person whose driving privileges under the ve-
 2 hicle code have been suspended.

3 (2) Except as provided in ORS 813.520, the department may reinstate the privilege to operate a
 4 motor vehicle of any person whose license to operate a motor vehicle has been suspended by issuing
 5 the person a hardship permit described under this section if such person qualifies under this
 6 section[,] **and** ORS 807.250, 807.252 and 813.500. However, the department may not issue a hardship
 7 permit authorizing a person to drive a commercial motor vehicle.

8 (3) To qualify for a hardship permit, a person must do all of the following in addition to any
 9 applicable provisions under ORS 807.250, 807.252 and 813.500:

10 (a) The person must submit to the department an application for the permit that demonstrates
 11 the person's need for the permit.

12 (b) The person must present satisfactory evidence, as determined by the department by rule:

13 (A) That the person must operate a motor vehicle as a requisite of the person's occupation or
 14 employment;

15 (B) That the person must operate a motor vehicle to seek employment or to get to or from a
 16 place of employment;

17 (C) That the person must operate a motor vehicle to get to or from an [*alcohol or drug*]
 18 **intoxicant** treatment or rehabilitation program;

19 (D) That the person or a member of the person's immediate family requires medical treatment
 20 on a regular basis and that the person must operate a motor vehicle in order that the treatment
 21 may be obtained; or

22 (E) That the person's driving privileges are suspended for driving uninsured in violation of ORS
 23 806.010 or for violation of ORS 165.805 or 471.430 and are not suspended for any other reason and
 24 that the person must operate a motor vehicle in order to provide necessary services to the person
 25 or to a member of the person's family. The department shall determine by rule what constitutes
 26 necessary services for purposes of this subparagraph. The rule shall include as necessary services,
 27 but need not be limited to, grocery shopping, driving the person or the person's children to school,
 28 driving to medical appointments and caring for elderly family members.

29 (c) If the person is applying for a permit because the person or a member of the person's im-
 30 mediate family requires medical treatment on a regular basis, the person must present, in addition
 31 to any evidence required by the department under paragraph (b) of this subsection, a statement
 32 signed by a licensed physician or certified nurse practitioner that indicates that the person or a
 33 member of the person's immediate family requires medical treatment on a regular basis.

34 (d) The person must show that the person is not incompetent to drive nor a habitual incompe-
 35 tent, reckless or criminally negligent driver as established by the person's driving record in this or
 36 any other jurisdiction.

37 (e) The person must make a future responsibility filing.

38 (f) The person must submit any other information the department may require for purposes of
 39 determining whether the person qualifies under this section[,] **and** ORS 807.250, 807.252, 813.500 and
 40 813.520.

41 (4) If the department finds that the person meets the requirements of this section and any ap-
 42 plicable requirements under ORS 807.250, 807.252, 813.500 and 813.520, the department may issue the
 43 person a hardship permit, valid for the duration of the suspension or for a shorter period of time
 44 established by the department unless sooner suspended or revoked under this section. If the de-
 45 partment issues the permit for a period shorter than the suspension period, renewal of the permit

1 shall be on such terms and conditions as the department may require. The permit:

2 (a) Shall limit the holder to operation of a motor vehicle only during specified times.

3 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
 4 motor vehicle that the department deems proper or necessary. The limitations may include any
 5 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
 6 811.175 or 811.182.

7 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
 8 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
 9 813.510, may suspend or revoke the hardship permit.

10 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver
 11 permit application fee under ORS 807.370. The department may not refund the fee if the application
 12 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit
 13 is the same fee as that charged for renewal of a license. The application fee charged under this
 14 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS
 15 807.370.

16 (7) The department may issue a permit granting the same driving privileges as those suspended
 17 or may issue a permit granting fewer driving privileges, as the department determines necessary to
 18 assure safe operation of motor vehicles by the permit holder.

19 **SECTION 7.** ORS 807.250 is amended to read:

20 807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions
 21 under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit
 22 under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction
 23 of any of the following unless the person submits to the department a recommendation from the
 24 judge before whom the person was convicted:

25 (a) ORS 811.140.

26 (b) ORS 811.540.

27 (c) Driving while under the influence of intoxicants. If a person's driving privileges are sus-
 28 pended for a conviction for driving while under the influence of intoxicants and the person is de-
 29 termined under ORS 813.500 to have a problem condition involving [*alcohol, inhalants or controlled*
 30 *substances*] **intoxicants** as described in ORS 813.040, the judge must:

31 (A) Make the recommendation with reference to the best interest of the public as well as of the
 32 defendant and the recommendation must be in writing.

33 (B) Recommend times, places, routes and days minimally necessary for the person to seek or
 34 retain employment, to attend any [*alcohol or drug*] **intoxicant** treatment or rehabilitation program
 35 or to receive necessary medical treatment for the person or a member of the person's immediate
 36 family.

37 (2) The department may not issue a hardship permit to a person whose suspension of driving
 38 privileges is based on a conviction described in ORS 809.265.

39 (3) The department may not issue a hardship permit to a person whose driver license or driver
 40 permit is suspended pursuant to ORS 25.750 to 25.783.

41 (4) The department may not issue a hardship permit to a person whose driving privileges are
 42 suspended pursuant to ORS 809.280 (5) or 809.416 (1) or (2).

43 **SECTION 8.** ORS 807.252 is amended to read:

44 807.252. (1) The Department of Transportation may not issue a hardship permit to a person
 45 whose driving privileges are suspended for conviction of assault in the second, third or fourth degree

1 if the person, within 10 years preceding application for the permit, has been convicted of:

2 (a) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from
3 the operation of a motor vehicle;

4 (b) Reckless driving, as defined in ORS 811.140;

5 (c) Driving while under the influence of intoxicants, as defined in ORS 813.010;

6 (d) Failure to perform the duties of a driver involved in an accident or collision, as described
7 in ORS 811.700 or 811.705;

8 (e) Criminal driving while suspended or revoked, as defined in ORS 811.182;

9 (f) Fleeing or attempting to elude a police officer, as defined in ORS 811.540; or

10 (g) Aggravated vehicular homicide, as defined in ORS 163.149.

11 (2) A conviction arising out of the same episode as the current suspension is not considered a
12 conviction for purposes of subsection (1) of this section.

13 (3) The department may not issue a hardship permit to a person whose driving privileges are
14 suspended for a conviction of assault in the second, third or fourth degree:

15 (a) For a period of four years from the date the department suspends driving privileges if the
16 person's driving privileges are suspended for conviction of assault in the second degree and the
17 person was not incarcerated for that conviction.

18 (b) For a period of four years from the date the person is released from incarceration for the
19 conviction if the person's driving privileges are suspended for conviction of assault in the second
20 degree and the person was incarcerated for that conviction.

21 (c) For a period of two years from the date the department suspends driving privileges if the
22 person's driving privileges are suspended for conviction of assault in the third degree and the person
23 was not incarcerated for that conviction.

24 (d) For a period of two years from the date the person is released from incarceration for the
25 conviction if the person's driving privileges are suspended for conviction of assault in the third de-
26 gree and the person was incarcerated for that conviction.

27 (e) For a period of six months from the date the department suspends driving privileges if the
28 person's driving privileges are suspended for conviction of assault in the fourth degree and the
29 person is not incarcerated for that conviction.

30 (f) For a period of six months from the date the person is released from incarceration for the
31 conviction if the person's driving privileges are suspended for conviction of assault in the fourth
32 degree and the person was incarcerated for that conviction.

33 (4) A hardship permit issued to a person whose driving privileges are suspended because of a
34 conviction for assault in the second, third or fourth degree shall limit the person's driving privileges:

35 (a) To the times, places, routes and days the department determines to be minimally necessary
36 for the person to seek or retain employment, to attend any *[alcohol or drug]* **intoxicant** treatment
37 or rehabilitation program or to obtain required medical treatment for the person or a member of the
38 person's immediate family; and

39 (b) To times, places, routes and days that are specifically stated.

40 (5) The person's driving privileges under the permit are subject to suspension or revocation if
41 the person does not maintain a good driving record, as defined by the administrative rules of the
42 department, during the term of the permit.

43 (6) The department may require the person to complete a driver improvement program under
44 ORS 809.480 as a condition of the permit.

45 (7) The department shall condition the permit so that the permit will be revoked if the person

1 is convicted of any of the following:

- 2 (a) Reckless driving under ORS 811.140.
- 3 (b) Driving while under the influence of intoxicants under ORS 813.010.
- 4 (c) Failure to perform the duties of a driver under ORS 811.700 or 811.705.
- 5 (d) Fleeing or attempting to elude a police officer under ORS 811.540.
- 6 (e) Driving while suspended or revoked under ORS 811.175 or 811.182.
- 7 (f) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from
- 8 the operation of a motor vehicle.
- 9 (g) Aggravated vehicular homicide under ORS 163.149.

10 **SECTION 9.** ORS 809.235 is amended to read:

11 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
 12 privileges be permanently revoked if the person is convicted of any degree of murder or of
 13 manslaughter in the first degree and the court finds that the person intentionally used a motor ve-
 14 hicle as a dangerous weapon resulting in the death of the victim.

15 (b) The court shall order that a person's driving privileges be permanently revoked if the person
 16 is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010
 17 or if the person is convicted for a third or subsequent time of any of the following offenses in any
 18 combination:

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

- 20 (i) ORS 813.010; or
- 21 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

22 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
 23 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
 24 *or any combination thereof*] **an intoxicant or a combination of intoxicants.**

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

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

31 (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this sec-
 32 tion may file a petition in the circuit court of the county in which the person resides for an order
 33 restoring the person's driving privileges. A petition may be filed under this subsection no sooner
 34 than 10 years after the person is:

35 (A) Released on parole or post-prison supervision; or

36 (B) Sentenced to probation if the probation is not revoked and the person is thereafter dis-
 37 charged without the imposition of a sentence of imprisonment.

38 (b) The district attorney of the county in which the person resides shall be named and served
 39 as the respondent in the petition.

40 (3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this
 41 section. In determining whether to grant the petition, the court shall consider:

- 42 (a) The nature of the offense for which driving privileges were revoked.
- 43 (b) The degree of violence involved in the offense.

44 (c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
 45 conviction that resulted in the revocation.

1 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
2 chological evaluation ordered by the court to determine whether the person is presently a threat to
3 the safety of the public.

4 (e) Any other relevant factors.

5 (4) If, after a hearing described in subsection (3) of this section, the court is satisfied by clear
6 and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a
7 threat to the safety of the public, the court shall order the petitioner's driving privileges restored.

8 **SECTION 10.** ORS 809.265 is amended to read:

9 809.265. (1) Unless the court finds compelling circumstances not to order suspension of driving
10 privileges, the court in which a person is convicted of an offense described in this subsection shall
11 prepare and send to the Department of Transportation, within 24 hours of the conviction, an order
12 of suspension of driving privileges of the person. This subsection applies when a person is convicted
13 of:

14 (a) Any offense involving manufacturing, possession or delivery of controlled substances.

15 (b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
16 ordinance, if the person was under the influence of an [*inhalant or a controlled substance*] **intoxicant**
17 **other than alcohol.**

18 (2) Upon receipt of an order under this section, the department shall take action as directed
19 under ORS 809.280.

20 **SECTION 11.** ORS 809.730 is amended to read:

21 809.730. (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is
22 arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS
23 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been
24 convicted of:

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

26 (A) ORS 813.010; or

27 (B) The statutory counterpart to ORS 813.010 in another jurisdiction;

28 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
29 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
30 *or any combination thereof*] **an intoxicant or a combination of intoxicants;**

31 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
32 blood alcohol content above that jurisdiction's permissible blood alcohol content;

33 (d) Murder, manslaughter, criminally negligent homicide or assault that resulted from the oper-
34 ation of a motor vehicle in this state or in another jurisdiction; or

35 (e) Aggravated vehicular homicide under ORS 163.149.

36 (2) For the purposes of subsection (1) of this section, a conviction for a driving offense in an-
37 other jurisdiction based solely on a person under 21 years of age having a blood alcohol content that
38 is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age
39 or older does not constitute a prior conviction.

40 (3) All seizure and forfeiture proceedings under this section shall be conducted in accordance
41 with ORS chapter 475A.

42 **SECTION 12.** ORS 813.010 is amended to read:

43 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if
44 the person drives a vehicle while the person:

45 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by

1 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

2 (b) Is under the influence of [*intoxicating liquor, a controlled substance or an inhalant*] **an**
 3 **intoxicant**; or

4 (c) Is under the influence of any combination of [*intoxicating liquor, an inhalant and a controlled*
 5 *substance*] **intoxicants**.

6 (2) A person may not be convicted of driving while under the influence of intoxicants on the
 7 basis of being under the influence of [*a controlled substance or an inhalant*] **an intoxicant other**
 8 **than alcohol** unless the fact that the person was under the influence of [*a controlled substance or*
 9 *an inhalant*] **an intoxicant** is pleaded in the accusatory instrument and is either proved at trial or
 10 is admitted by the person through a guilty plea.

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

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

16 (5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense
 17 was committed in a motor vehicle and the defendant has been convicted, at least three times in the
 18 10 years prior to the date of the current offense, of any of the following offenses in any combination:

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

20 (i) This section; or

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

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

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

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

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

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

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

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

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

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

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

44 **SECTION 13.** ORS 813.021 is amended to read:

45 813.021. (1) When a court, in accordance with ORS 813.020, requires a person to complete a

1 screening interview and a treatment program, the court shall require the person to do all of the
 2 following:

3 (a) Complete a screening interview for the purpose of determining appropriate placement of the
 4 person in a program for treatment for *[alcoholism, drug dependency or dependency on inhalants]* **de-**
 5 **pendency on intoxicants.**

6 (b) Pay directly to the agency or organization conducting the screening interview a fee of \$150.

7 (c) Complete the treatment program to which the person is referred.

8 (d) Pay for the treatment program to which the person is referred.

9 (2) The screening interview required by this section shall be conducted by an agency or organ-
 10 ization designated by the court. The designated agency or organization must meet the standards set
 11 by the Director of Human Services to conduct the screening interviews. Wherever possible a court
 12 shall designate agencies or organizations to perform the screening interview that are separate from
 13 those that may be designated to carry out a treatment program.

14 (3) An agency or organization doing a screening interview under this section may not refer a
 15 person to a treatment program that has not been approved by the Director of Human Services.

16 (4) The agency or organization conducting a screening interview under this section shall moni-
 17 tor the progress of the person referred to the agency or organization. The agency or organization
 18 shall make a report to the referring court stating the person's successful completion or failure to
 19 complete all or any part of the screening interview or of the treatment program to which the person
 20 was referred by the agency or organization. The report shall be in a form determined by agreement
 21 between the court and the agency or organization.

22 **SECTION 14.** ORS 813.040 is amended to read:

23 813.040. This section establishes, for purposes of ORS 471.432, 807.060 and 813.500, when a per-
 24 son has a problem condition involving *[alcohol, inhalants or controlled substances]* **intoxicants.** For
 25 purposes of ORS 471.432, 807.060 and 813.500, a person has a problem condition involving *[alcohol,*
 26 *inhalants or controlled substances]* **intoxicants** if it is determined that the person has a problem
 27 condition in which the person's health or that of others is substantially impaired or endangered or
 28 the person's social or economic function is substantially disrupted because of the person's:

29 (1) Habitual or periodic use of *[alcoholic beverages]* **alcohol**; or

30 (2) Use of or loss of the ability to control the use of *[controlled substances, inhalants or other*
 31 *substances with]* **intoxicants other than alcohol that have** abuse potential including a condition
 32 that may have developed:

33 (a) A physical dependence in which the body requires a continuing supply of *[a drug, inhalant*
 34 *or controlled substance]* **an intoxicant** to avoid characteristic withdrawal symptoms; or

35 (b) A psychological dependence characterized by an overwhelming mental desire for continued
 36 use of *[a drug, inhalant or controlled substance]* **an intoxicant.**

37 **SECTION 15.** ORS 813.100 is amended to read:

38 813.100. (1) Any person who operates a motor vehicle upon premises open to the public or the
 39 highways of this state shall be deemed to have given consent, subject to the implied consent law,
 40 to a chemical test of the person's breath, or of the person's blood if the person is receiving medical
 41 care in a health care facility immediately after a motor vehicle accident, for the purpose of deter-
 42 mining the *[alcoholic]* **alcohol** content of the person's blood if the person is arrested for driving a
 43 motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
 44 ordinance. A test shall be administered upon the request of a police officer having reasonable
 45 grounds to believe the person arrested to have been driving while under the influence of intoxicants

1 in violation of ORS 813.010 or of a municipal ordinance. Before the test is administered the person
 2 requested to take the test shall be informed of consequences and rights as described under ORS
 3 813.130.

4 (2) No chemical test of the person’s breath or blood shall be given, under subsection (1) of this
 5 section, to a person under arrest for driving a motor vehicle while under the influence of intoxicants
 6 in violation of ORS 813.010 or of a municipal ordinance, if the person refuses the request of a police
 7 officer to submit to the chemical test after the person has been informed of consequences and rights
 8 as described under ORS 813.130.

9 (3) If a person refuses to take a test under this section or if a breath test under this section
 10 discloses that the person, at the time of the test, had a level of alcohol in the person’s blood that
 11 constitutes being under the influence of [*intoxicating liquor*] **alcohol** under ORS 813.300, the person’s
 12 driving privileges are subject to suspension under ORS 813.410 and the police officer shall do all of
 13 the following:

14 (a) Immediately take custody of any driver license or permit issued by this state to the person
 15 to grant driving privileges.

16 (b) Provide the person with a written notice of intent to suspend, on forms prepared and pro-
 17 vided by the Department of Transportation. The written notice shall inform the person of conse-
 18 quences and rights as described under ORS 813.130.

19 (c) If the person qualifies under ORS 813.110, issue to the person, on behalf of the department,
 20 a temporary driving permit described under ORS 813.110.

21 (d) Within a period of time required by the department by rule, report action taken under this
 22 section to the department and prepare and cause to be delivered to the department a report as de-
 23 scribed in ORS 813.120, along with the confiscated license or permit and a copy of the notice of in-
 24 tent to suspend.

25 (4) If a blood test under this section discloses that the person, at the time of the test, had a level
 26 of alcohol in the person’s blood that constitutes being under the influence of [*intoxicating liquor*]
 27 **alcohol** under ORS 813.300, the person’s driving privileges are subject to suspension under ORS
 28 813.410 and the police officer shall report to the department within 45 days of the date of arrest that
 29 the person failed the blood test.

30 **SECTION 16.** ORS 813.120 is amended to read:

31 813.120. (1) A report required by ORS 813.100 shall disclose substantially all of the following
 32 information:

33 (a) Whether the person, at the time the person was requested to submit to a test, was under
 34 arrest for driving a motor vehicle while under the influence of intoxicants in violation of ORS
 35 813.010 or of a municipal ordinance.

36 (b) Whether the police officer had reasonable grounds to believe, at the time the request was
 37 made, that the person arrested had been driving under the influence of intoxicants in violation of
 38 ORS 813.010 or of a municipal ordinance.

39 (c) Whether the person refused to submit to a test or if the person submitted to a breath or
 40 blood test whether the level of alcohol in the person’s blood, as shown by the test, was sufficient
 41 to constitute being under the influence of [*intoxicating liquor*] **alcohol** under ORS 813.300.

42 (d) Whether the person was driving a commercial motor vehicle and refused to submit to a test
 43 or if the person submitted to a breath or blood test whether the level of alcohol in the person’s
 44 blood, as shown by the test, was 0.04 percent or more by weight.

45 (e) Whether the person was informed of consequences and rights as described under ORS

1 813.130.

2 (f) Whether the person was given written notice of intent to suspend required by ORS 813.100
 3 (3)(b).

4 (g) If the arrested person took a test, a statement that the person conducting the test was ap-
 5 propriately qualified.

6 (h) If the arrested person took a test, a statement that any methods, procedures and equipment
 7 used in the test comply with any requirements under ORS 813.160.

8 (2) A report required by ORS 813.100 may be made in one or more forms specified by the De-
 9 partment of Transportation.

10 **SECTION 17.** ORS 813.131 is amended to read:

11 813.131. (1) Any person who operates a motor vehicle upon premises open to the public or the
 12 highways of this state shall be deemed to have given consent, subject to the Motorist Implied Con-
 13 sent Law, to a chemical test of the person's urine for the purpose of determining the presence of
 14 [*a controlled substance or an inhalant*] **an intoxicant other than alcohol** in the person's body if the
 15 person is arrested for driving while under the influence of intoxicants in violation of ORS 813.010
 16 or of a municipal ordinance and either:

17 (a) The person takes the breath test described in ORS 813.100 and the test discloses a blood
 18 alcohol content of less than 0.08 percent; or

19 (b) The person is involved in an accident resulting in injury or property damage. A urine test
 20 may be requested under this paragraph regardless of whether a breath test has been requested and
 21 regardless of the results of a breath test, if one is taken.

22 (2) A police officer may not request a urine test unless the officer is certified by the Board on
 23 Public Safety Standards and Training as having completed at least eight hours of training in re-
 24 cognition of [*drug*] **intoxicant** impaired driving and the officer has a reasonable suspicion that the
 25 person arrested has been driving while under the influence of [*a controlled substance, an inhalant*]
 26 **an intoxicant other than alcohol** or any combination of [*an inhalant, a controlled substance and*
 27 *intoxicating liquor*] **intoxicants**.

28 (3) A person asked to give a urine sample shall be given privacy and may not be observed by
 29 a police officer when producing the sample.

30 (4) A chemical analysis of a person's urine under this section shall be performed in an accred-
 31 ited or licensed toxicology laboratory.

32 **SECTION 18.** ORS 813.140 is amended to read:

33 813.140. Nothing in ORS 813.100 is intended to preclude the administration of a chemical test
 34 described in this section. A police officer may obtain a chemical test of the blood to determine the
 35 amount of alcohol in any person's blood or a test of the person's blood or urine, or both, to deter-
 36 mine the presence of [*a controlled substance or an inhalant*] **an intoxicant other than alcohol** in
 37 the person as provided in the following:

38 (1) If, when requested by a police officer, the person expressly consents to such a test.

39 (2) Notwithstanding subsection (1) of this section, from a person without the person's consent
 40 if:

41 (a) The police officer has probable cause to believe that the person was driving while under the
 42 influence of intoxicants and that evidence of the offense will be found in the person's blood or urine;
 43 and

44 (b) The person is unconscious or otherwise in a condition rendering the person incapable of
 45 expressly consenting to the test or tests requested.

SECTION 19. ORS 813.150 is amended to read:

813.150. In addition to a chemical test of the breath, blood or urine administered under ORS 813.100 or 813.140, upon the request of a police officer, a person shall be permitted upon request, at the person's own expense, reasonable opportunity to have any licensed physician and surgeon, licensed professional nurse or qualified technician, chemist or other qualified person of the person's own choosing administer a chemical test or tests of the person's breath or blood for the purpose of determining the [*alcoholic*] **alcohol** content of the person's blood or a chemical test or tests of the person's blood or urine, or both, for the purpose of determining the presence of [*a controlled substance or an inhalant*] **an intoxicant other than alcohol** in the person. The failure or inability to obtain such a test or tests by a person shall not preclude the admission of evidence relating to a test or tests taken upon the request of a police officer.

SECTION 20. ORS 813.200 is amended to read:

813.200. (1) The court shall inform at arraignment a defendant charged with the offense of driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance conforming thereto that a diversion agreement may be available if the defendant meets the criteria set out in ORS 813.215 and files with the court a petition for a driving while under the influence of intoxicants diversion agreement.

(2) The petition forms for a driving while under the influence of intoxicants diversion agreement shall be available to a defendant at the court.

(3) The form of the petition for a driving while under the influence of intoxicants diversion agreement and the information and blanks contained therein shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements adopted by the Supreme Court.

(4) In addition to any other information required by the Supreme Court to be contained in a petition for a driving while under the influence of intoxicants diversion agreement, the petition shall include:

(a) A plea of guilty or no contest to the charge of driving while under the influence of intoxicants signed by the defendant;

(b) An agreement by the defendant to complete at an agency or organization designated by the city or state court a diagnostic assessment to determine the possible existence and degree of an [*alcohol or drug*] **intoxicant** abuse problem;

(c) An agreement by the defendant to complete, at defendant's own expense based on defendant's ability to pay, the program of treatment indicated as necessary by the diagnostic assessment;

(d) An agreement by the defendant to not use intoxicants in conjunction with the defendant's operation of a motor vehicle and to comply fully with the laws of this state designed to discourage the use of intoxicants in conjunction with motor vehicle operation;

(e) A notice to the defendant that the diversion agreement will be considered to be violated if the court receives notice that the defendant at any time during the diversion period committed the offense of driving while under the influence of intoxicants or committed a violation of ORS 811.170;

(f) An agreement by the defendant to keep the court advised of the defendant's current mailing address at all times during the diversion period;

(g) A waiver by the defendant of any former jeopardy rights under the federal and state Constitutions and ORS 131.505 to 131.525 in any subsequent action upon the charge or any other offenses based upon the same criminal episode;

(h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defendant

1 meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the
 2 influence of intoxicants diversion agreement; and

3 (i) An agreement by the defendant to pay court-appointed attorney fees as determined by the
 4 court.

5 **SECTION 21.** 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 inhalant*
 16 *or any combination thereof*] **an intoxicant or a combination of intoxicants**; 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 in a driving while under the influence of intoxicants
 25 diversion program or in any similar [*alcohol or drug*] **intoxicant** rehabilitation program, other than
 26 a program entered into as a result of the charge for the present offense, in this state or in another
 27 jurisdiction on the date the defendant filed the petition for a driving while under the influence of
 28 intoxicants diversion agreement.

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

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

38 (g) The defendant has not been convicted of an offense described in paragraph (f) of this sub-
 39 section within the period beginning 10 years before the date of the commission of the present offense
 40 and ending on the date the defendant filed the petition for a driving while under the influence of
 41 intoxicants diversion agreement.

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

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

45 (j) The present driving while under the influence of intoxicants offense did not involve an acci-

1 dent resulting in:

2 (A) Death of any person; or

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

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

8 **SECTION 22.** ORS 813.220 is amended to read:

9 813.220. After the time for requesting a hearing under ORS 813.210 has expired with no request
10 for a hearing, or after a hearing requested under ORS 813.210, the court shall determine whether
11 to allow or deny a petition for a driving while under the influence of intoxicants diversion agree-
12 ment. In making a determination under this section, the court:

13 (1) Shall consider whether the diversion will be of benefit to the defendant and the community.

14 (2) May take into consideration whether there was an early recognition by the defendant during
15 the proceeding that a course of diagnosis and treatment of problem drinking, alcoholism, [or] drug
16 dependency **or other intoxicant dependency** would be beneficial.

17 (3) May take into consideration whether there is a probability that the defendant will cooperate
18 with the diagnostic assessment and treatment agencies.

19 (4) May take into consideration whether the defendant will observe the restrictions contained
20 in the diversion agreement.

21 (5) May take into consideration whether the offense was committed in a motor vehicle and
22 whether there was a passenger in the motor vehicle who was under 18 years of age and at least
23 three years younger than the defendant.

24 (6) Shall deny the petition for a driving while under the influence of intoxicants diversion
25 agreement if the defendant failed to appear at an arraignment on the present offense without good
26 cause.

27 (7) Shall deny the petition for a driving while under the influence of intoxicants diversion
28 agreement if, after the date the defendant filed the petition, the defendant was charged with or
29 convicted of:

30 (a) An offense of driving while under the influence of intoxicants in violation of:

31 (A) ORS 813.010; or

32 (B) The statutory counterpart to ORS 813.010 in another jurisdiction;

33 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
34 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
35 *or any combination thereof*] **an intoxicant or a combination of intoxicants**; or

36 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
37 blood alcohol content above that jurisdiction's permissible blood alcohol content.

38 (8) Shall deny the petition for a driving while under the influence of intoxicants diversion
39 agreement if the defendant participated in a driving while under the influence of intoxicants diver-
40 sion program or in any similar [*alcohol or drug*] **intoxicant** rehabilitation program, other than a
41 program entered into as a result of the charge for the present offense, in this state or in another
42 jurisdiction after the date the defendant filed the petition.

43 (9) Shall deny the petition for a driving while under the influence of intoxicants diversion
44 agreement if the defendant was charged with or convicted of an offense of aggravated vehicular
45 homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the

1 operation of a motor vehicle in this state or in another jurisdiction after the date the defendant filed
 2 the petition.

3 (10) Shall deny the petition for a driving while under the influence of intoxicants diversion
 4 agreement if the defendant has been convicted of a felony offense described in ORS 813.010 (5)(a).

5 (11) For the purposes of subsection (7) of this section, may not consider a conviction for a
 6 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
 7 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
 8 person 21 years of age or older as a prior conviction.

9 **SECTION 23.** ORS 813.260 is amended to read:

10 813.260. (1) Courts having jurisdiction over driving while under the influence of intoxicants of-
 11 fenses shall designate agencies or organizations to perform the diagnostic assessment and treatment
 12 required under driving while under the influence of intoxicants diversion agreements described in
 13 ORS 813.200. The designated agencies or organizations must meet the standards set by the Director
 14 of Human Services to perform the diagnostic assessment and treatment of problem drinking,
 15 alcoholism, [and] drug dependency **and other intoxicant dependency** and must be certified by the
 16 Director of Human Services. Wherever possible a court shall designate agencies or organizations to
 17 perform the diagnostic assessment that are separate from those that may be designated to carry out
 18 a program of treatment.

19 (2) Monitoring of a defendant’s progress under a diversion agreement shall be the responsibility
 20 of the diagnostic assessment agency or organization. It shall make a report to the court stating the
 21 defendant’s successful completion or failure to complete all or any part of the treatment program
 22 specified by the diagnostic assessment. The form of the report shall be determined by agreement
 23 between the court and the diagnostic assessment agency or organization. The court shall make the
 24 report of the diagnostic assessment agency or organization that is required by this subsection a part
 25 of the record of the case.

26 **SECTION 24.** ORS 813.270 is amended to read:

27 813.270. The Intoxicated Driver Program Fund is created to consist of moneys placed in the fund
 28 under ORS 813.030 and 813.240 or as otherwise provided by law and of gifts and grants made to the
 29 fund for carrying out the purposes of the fund. The moneys in the fund may be used only for the
 30 following purposes:

31 (1) To pay for providing treatment for individuals who enter diversion agreements under ORS
 32 813.200 and who are found to be indigent. Payment for treatment under this subsection may include
 33 treatment for problem drinking, alcoholism, [or] drug dependency **or other intoxicant**
 34 **dependency**. Payment shall be made as provided by the Director of Human Services by rule to
 35 agencies or organizations providing treatment.

36 (2) To pay for evaluation as provided by law of programs used for diversion agreements.

37 (3) To pay the cost of administration of the fund by the Director of Human Services.

38 (4) To pay for materials, resources and training supplied by the Director of Human Services to
 39 those persons, organizations or agencies performing the diagnostic assessments or providing educa-
 40 tion or treatment to persons under diversion agreements.

41 (5) To pay for providing treatment programs required under ORS 813.020 and treatment or in-
 42 formation programs required under ORS 471.432 for individuals who are found to be indigent.

43 (6) To pay for special services required to enable a person with a disability, or a person whose
 44 proficiency in the use of English is limited because of the person’s national origin, to participate in
 45 treatment programs that are used for diversion agreements under ORS 813.200 or are required under

1 ORS 813.020. This subsection applies:

2 (a) Whether or not the person is indigent; and

3 (b) Only to special services required solely because of the person’s disability or limited profi-
4 ciency in the use of English.

5 **SECTION 25.** ORS 813.300 is amended to read:

6 813.300. (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts
7 committed by a person driving a motor vehicle while under the influence of intoxicants, if the
8 amount of alcohol in the person’s blood at the time alleged is less than 0.08 percent by weight of
9 alcohol as shown by chemical analysis of the person’s breath or blood, it is indirect evidence that
10 may be used with other evidence, if any, to determine whether or not the person was then under the
11 influence of intoxicants.

12 (2) Not less than 0.08 percent by weight of alcohol in a person’s blood constitutes being under
13 the influence of [*intoxicating liquor*] **alcohol**.

14 (3) Notwithstanding subsection (2) of this section, for purposes of the Motorist Implied Consent
15 Law as defined in ORS 801.010, for a person who is under 21 years of age, any amount of alcohol
16 in the blood constitutes being under the influence of [*intoxicating liquor*] **alcohol**.

17 (4) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one
18 hundred cubic centimeters of blood.

19 **SECTION 26.** ORS 813.420 is amended to read:

20 813.420. When the Department of Transportation imposes a suspension under ORS 813.410, the
21 suspension shall be for a period of time determined according to the following:

22 (1) If the suspension is for refusal of a test under ORS 813.100 and the person is not subject to
23 an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for
24 a period of one year.

25 (2) If the suspension is for refusal of a test under ORS 813.100 and the person is subject to an
26 increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a
27 period of three years.

28 (3) If the suspension is because a breath or blood test under ORS 813.100 disclosed that the
29 person had a level of alcohol in the person’s blood that constituted being under the influence of
30 [*intoxicating liquor*] **alcohol** under ORS 813.300 and the person is not subject to an increase in the
31 suspension time for reasons described in ORS 813.430, the suspension shall be for a period of 90
32 days.

33 (4) If the suspension is because a breath or blood test under ORS 813.100 disclosed that the
34 person had a level of alcohol in the person’s blood that constituted being under the influence of
35 [*intoxicating liquor*] **alcohol** under ORS 813.300 and the person is subject to an increase in the sus-
36 pension time for reasons described in ORS 813.430, the suspension shall be for a period of one year.

37 **SECTION 27.** ORS 813.430 is amended to read:

38 813.430. This section establishes circumstances under which ORS 813.420 requires an increase
39 in the time for suspension of driving privileges and under which ORS 813.520 requires an increase
40 in the time before the Department of Transportation may issue a hardship permit. A person is sub-
41 ject to an increase in suspension time under this section if any of the following apply:

42 (1) The person is presently participating in a driving while under the influence of intoxicants
43 diversion program in this state or in any similar [*alcohol or drug*] **intoxicant** rehabilitation program
44 in this or another jurisdiction.

45 (2) Within the five years preceding the date of arrest any of the following occurred:

1 (a) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replace-
2 ment Part) became effective.

3 (b) The person was convicted of:

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

5 (i) ORS 813.010;

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

7 (iii) A municipal ordinance in this state or another jurisdiction;

8 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
9 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
10 *or any combination thereof*] **an intoxicant or a combination of intoxicants**; or

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

13 (c) The person commenced participating in a driving while under the influence of intoxicants
14 diversion program in this state or in any similar [*alcohol or drug*] **intoxicant** rehabilitation program
15 in this or another jurisdiction.

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

20 **SECTION 28.** ORS 813.470 is amended to read:

21 813.470. The Department of Transportation shall make a notation on the driving record of a
22 person indicating that the person was acquitted of a charge of driving under the influence of
23 intoxicants if:

24 (1) The person's driving privileges were suspended because a breath or blood test under ORS
25 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being
26 under the influence of [*intoxicating liquor*] **alcohol** under ORS 813.300;

27 (2) An accusatory instrument was filed charging the person with driving under the influence of
28 intoxicants in violation of ORS 813.010 arising out of the same incident that led to the suspension
29 of the person's driving privileges;

30 (3) The person was acquitted of the charge; and

31 (4) The person presents the department with a certified copy of the judgment of acquittal from
32 the court clearly showing the location of the court, the date of the arrest and the findings of the
33 court.

34 **SECTION 29.** ORS 813.500 is amended to read:

35 813.500. (1) If a person's license is suspended for driving while under the influence of intoxicants
36 under ORS 813.400 and the suspension period is determined by ORS 809.428 (2)(b) or (c), the De-
37 partment of Transportation may only issue a hardship permit to the person under ORS 807.240 if the
38 person, in addition to any requirement under ORS 807.240 and any applicable requirements under
39 ORS 807.250 and 813.520:

40 (a) Is examined by the Director of Human Services or its designee to determine whether the
41 person has a problem condition involving [*alcohol, inhalants or controlled substances*] **intoxicants**
42 as described in ORS 813.040; and

43 (b) Complies with the requirements of this section.

44 (2) If the Director of Human Services determines that the person has a problem condition in-
45 volving [*alcohol, inhalants or controlled substances*] **intoxicants**, as described in ORS 813.040, the

1 department may issue the permit to the person only if both the following apply:

2 (a) The person enrolled in a program for rehabilitation for *[alcoholism or drug dependence]*
 3 **intoxicant dependency** approved by the Director of Human Services.

4 (b) The Director of Human Services recommends, on the basis of the person’s progress in the
 5 rehabilitation program, such reinstatement in writing to the department. If the Director of Human
 6 Services makes a recommendation under this paragraph, the Director of Human Services shall state
 7 specifically in the recommendation the times, places, routes and days of the week minimally neces-
 8 sary for the person to seek or retain employment, to attend any *[alcohol or drug]* **intoxicant** treat-
 9 ment or rehabilitation program or to obtain necessary medical treatment for the person or a member
 10 of the person’s immediate family.

11 (3) If the Director of Human Services determines that the person does not have a problem con-
 12 dition involving *[alcohol, inhalants or controlled substances]* **intoxicants** as described in ORS 813.040,
 13 the department may issue the permit to the person only if, in addition to any requirements under
 14 ORS 807.240, the person enters an *[alcohol or drug]* **intoxicant** information program approved by the
 15 Director of Human Services and the department determines that issuance of a permit is appropriate.
 16 If the department issues a permit to a person described in this subsection, the department shall re-
 17 quire, under ORS 807.240, that the person complete the program as a condition of retaining the
 18 permit.

19 **SECTION 30.** ORS 813.510 is amended to read:

20 813.510. This section establishes limitations that the Department of Transportation is required
 21 or permitted to place on hardship permits issued under ORS 807.240 to persons whose suspension is
 22 based upon a conviction for driving under the influence of intoxicants or upon ORS 813.100. Limi-
 23 tations placed on a hardship permit under this section are in addition to any limitations placed on
 24 the permit under ORS 807.240. A person’s permit is subject to suspension or revocation as provided
 25 under ORS 807.240 if the department determines that the holder of the permit has violated any
 26 limitation placed upon the permit under this section. Violation of a limitation under this section is
 27 punishable as provided by ORS 811.175 or 811.182. The limitations are as described in the following:

28 (1) A hardship permit issued to the person shall limit the person’s driving privileges:

29 (a) To the times, places, routes and days the department determines to be minimally necessary
 30 for the person to seek or retain employment, to attend any *[alcohol or drug]* **intoxicant** treatment
 31 or rehabilitation program or to obtain required medical treatment for the person or a member of the
 32 person’s immediate family; and

33 (b) To times, places, routes and days that are specifically stated.

34 (2) The person’s driving privileges under the permit are subject to suspension or revocation if
 35 the person does not maintain a good driving record, as defined by the administrative rules of the
 36 department, during the term of the permit.

37 (3) If the person is in a rehabilitation program under ORS 813.500, the person must complete the
 38 rehabilitation program.

39 (4) The department may require the person to complete a driver improvement program under
 40 ORS 809.480 as a condition of the permit.

41 (5) If the person is involved in a diversion agreement under ORS 813.220 and 813.230, the de-
 42 partment may require the person to successfully complete the diversion program as a condition of
 43 retaining the permit.

44 (6) The department shall condition the permit so that the permit will be revoked if the person
 45 is convicted of any of the following:

- 1 (a) Reckless driving under ORS 811.140.
- 2 (b) Driving under the influence of intoxicants under ORS 813.010.
- 3 (c) Failure to perform the duties of a driver under ORS 811.700 or 811.705.
- 4 (d) Fleeing or attempting to elude a police officer under ORS 811.540.
- 5 (e) Driving while suspended or revoked under ORS 811.175 or 811.182.

6 **SECTION 31.** ORS 813.520 is amended to read:

7 813.520. In addition to any provisions of ORS 807.240 and 813.510 or 807.250, this section estab-
 8 lishes limitations on the authority of the Department of Transportation to issue driving privileges
 9 under ORS 807.240. The department may not reinstate any driving privileges or issue any hardship
 10 permit under ORS 807.240 as provided under any of the following:

11 (1) For a period of 90 days after the beginning of the suspension if the suspension is for refusal
 12 of a test under ORS 813.100 and the person is not subject to an increase in the time before a permit
 13 may be issued for reasons described in ORS 813.430. This period of 90 days shall be reduced by the
 14 time the department refused to issue a hardship permit under subsection (5) or (6) of this section if
 15 the person's driving privileges were suspended based on the same occurrence.

16 (2) For a period of 30 days after the beginning of the suspension if the suspension is because a
 17 breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the per-
 18 son's blood that constituted being under the influence of [*intoxicating liquor*] **alcohol** under ORS
 19 813.300 and the person is not subject to an increase in the time before a hardship permit may be
 20 issued for reasons described in ORS 813.430. This period of 30 days shall be reduced by the time the
 21 department refused to issue a hardship permit under subsection (5) or (6) of this section if the per-
 22 son's driving privileges were suspended based on the same occurrence.

23 (3) For a period of one year after the beginning of the suspension if the suspension is because
 24 a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the
 25 person's blood that constituted being under the influence of [*intoxicating liquor*] **alcohol** under ORS
 26 813.300 and the person is subject to an increase in the time before a hardship permit may be issued
 27 for reasons described under ORS 813.430. This period of one year shall be reduced by the time the
 28 department refused to issue a hardship permit under subsection (5) or (6) of this section if the per-
 29 son's driving privileges were suspended based on the same occurrence.

30 (4) For a period of one year after the beginning of the suspension if the suspension is for refusal
 31 of a test under ORS 813.100 and the person is subject to an increase in the time before a hardship
 32 permit may be issued for reasons described in ORS 813.430. This period of one year shall be reduced
 33 by the time the department refused to issue a hardship permit under subsection (5) or (6) of this
 34 section if the person's driving privileges were suspended based on the same occurrence.

35 (5) For a period of 90 days after the beginning of the suspension under ORS 813.400 if it is the
 36 person's second conviction for driving while under the influence of intoxicants if the suspension
 37 period is determined by ORS 809.428 (2)(b). This period of 90 days shall be reduced by the time the
 38 department refused to issue a hardship permit under subsection (1), (2), (3) or (4) of this section if
 39 the person's driving privileges were suspended based on the same occurrence.

40 (6) For a period of one year after the beginning of the suspension under ORS 813.400 for driving
 41 while under the influence of intoxicants if the suspension period is determined by ORS 809.428 (2)(c).
 42 This period of one year shall be reduced by the time the department refused to issue a hardship
 43 permit under subsection (1), (2), (3) or (4) of this section if the person's driving privileges were sus-
 44 pended based on the same occurrence.

45 (7) To any person who has a mental or physical condition or impairment that affects the person's

1 ability to safely operate a motor vehicle.

2 (8) If the suspension is based upon a conviction for a violation of ORS 813.010 or is imposed
3 under ORS 813.410 based upon ORS 813.100 to a person who has available public or private trans-
4 portation sufficient to fulfill the person's transportation needs while the person is suspended.

5 (9) For a period of 30 days following imposition of suspension, if the person, within the previous
6 year, has been convicted of a traffic crime and the suspension is based upon a conviction for vio-
7 lation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100.

8 **SECTION 32.** ORS 821.250 is amended to read:

9 821.250. (1) A person commits the offense of permitting dangerous operation of a snowmobile or
10 an all-terrain vehicle if the person is the owner or other person having charge or control of a
11 snowmobile or an all-terrain vehicle and the person knowingly authorizes or permits any person to
12 operate the vehicle across a highway who is:

13 (a) Incapable by reason of age, physical or mental disability; or

14 (b) Under the influence of [*intoxicating liquor, inhalants or controlled substances*] **an**
15 **intoxicant.**

16 (2) In addition to other penalties provided by this section, operators or owners may be liable
17 as provided under ORS 821.310.

18 (3) The offense described in this section, permitting dangerous operation of a snowmobile or an
19 all-terrain vehicle, is a Class A traffic violation.

20