

House Bill 2812

Sponsored by COMMITTEE ON JUDICIARY (at the request of Erik Blumenthal)

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**.

Limits revocation or suspension of driving privileges for driving while under the influence of intoxicants to persons operating motor vehicles.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; and amending
3 ORS 809.235, 809.265 and 809.600.

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

5 **SECTION 1.** ORS 809.235 is amended to read:

6 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
7 privileges be permanently revoked if the person is convicted of any degree of murder or of
8 manslaughter in the first degree and the court finds that the person intentionally used a motor ve-
9 hicle as a dangerous weapon resulting in the death of the victim.

10 (b) The court shall order that a person's driving privileges be permanently revoked if the person
11 is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010
12 or if the person is convicted for a third or subsequent time of any of the following offenses in any
13 combination **committed while the person was operating a motor vehicle:**

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

15 (i) ORS 813.010; or

16 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

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

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

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

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

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

31 (B) Sentenced to probation if the probation is not revoked and the person is thereafter dis-

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 charged without the imposition of a sentence of imprisonment.

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

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

6 (a) The nature of the offense for which driving privileges were revoked.

7 (b) The degree of violence involved in the offense.

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

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

13 (e) Any other relevant factors.

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

17 **SECTION 2.** ORS 809.265 is amended to read:

18 809.265. (1) Unless the court finds compelling circumstances not to order suspension of driving
19 privileges, the court in which a person is convicted of an offense described in this subsection shall
20 prepare and send to the Department of Transportation, within 24 hours of the conviction, an order
21 of suspension of driving privileges of the person. This subsection applies when a person is convicted
22 of:

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

24 (b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
25 ordinance if the person was under the influence of an inhalant or a controlled substance **and the**
26 **offense was committed while the person was operating a motor vehicle.**

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

29 **SECTION 3.** ORS 809.600 is amended to read:

30 809.600. This section establishes the kinds of offenses and the number of convictions necessary
31 to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The kinds
32 of offenses and the number of convictions necessary to revoke driving privileges as a habitual
33 offender are as follows:

34 (1) A person's driving privileges shall be revoked as a habitual offender if the person, within a
35 five-year period, has been convicted of three or more of any one or more of the following offenses
36 as evidenced by the records maintained by the Department of Transportation or by the records of
37 a similar agency of another state:

38 (a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly en-
39 dangering another person, menacing or criminal mischief resulting from the operation of a motor
40 vehicle.

41 (b) Driving while under the influence of intoxicants under ORS 813.010 **and the offense was**
42 **committed while the person was operating a motor vehicle.**

43 (c) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

44 (d) Reckless driving under ORS 811.140.

45 (e) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

1 (f) Fleeing or attempting to elude a police officer under ORS 811.540.

2 (g) Aggravated vehicular homicide under ORS 163.149.

3 (2) A person's driving privileges shall be revoked as a habitual offender if the person, within a
4 five-year period, has been convicted of 20 or more of any one or more of the following offenses as
5 evidenced by the records maintained by the department or by a similar agency of another state:

6 (a) Any offenses enumerated in subsection (1) of this section.

7 (b) Any offense specified in the rules of the department adopted under ORS 809.605.

8 (3) A person's driving privileges shall not be revoked under subsection (2) of this section until
9 the person's 21st conviction within a five-year period when the 20th conviction occurs after a lapse
10 of two years or more from the last preceding conviction.

11 (4) The offenses described under this section include any of the following:

12 (a) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation that
13 substantially conforms to offenses described under this section.

14 (b) Any violation of offenses under any federal law or any law of another state, including sub-
15 divisions thereof, that substantially conform to offenses described in this section.

16 **SECTION 4. The amendments to ORS 809.235, 809.265 and 809.600 by sections 1, 2 and 3**
17 **of this 2009 Act apply to offenses committed on or after the effective date of this 2009 Act.**

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