

# House Bill 3051

Sponsored by COMMITTEE ON JUDICIARY (at the request of Mothers Against Drunk Driving)

## 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**.

Requires permanent revocation of driving privileges for persons convicted of driving while under influence of intoxicants.

Increases amount of time person must use ignition interlock device after ending date of revocation of driving privileges for conviction of driving while under influence of intoxicants.

Increases penalty for offense of unlawfully soliciting another to blow into ignition interlock device or start motor vehicle equipped with ignition interlock device. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both.

Increases penalty for offense of tampering with ignition interlock device. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both.

Requires person ordered to install ignition interlock device to report to court within 30 days of order.

Requires provider of ignition interlock devices to provide reports generated by device to court and district attorney.

## A BILL FOR AN ACT

1  
2 Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS  
3 430.165, 802.200, 802.550, 807.240, 807.250, 809.235, 809.240, 809.265, 809.404, 809.409, 809.412,  
4 809.428, 809.460, 809.600, 810.375, 811.182, 813.040, 813.403, 813.404, 813.470, 813.510, 813.520,  
5 813.602, 813.606, 813.610 and 813.614; and repealing ORS 813.400 and 813.500.

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

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

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

12 (b) The court shall order that a person's driving privileges be permanently revoked if the person  
13 is convicted of [*felony*] driving while under the influence of intoxicants in violation of ORS 813.010.  
14 [*or if the person is convicted for a third or subsequent time of any of the following offenses in any*  
15 *combination.*]

16 [(A) *Driving while under the influence of intoxicants in violation of:*]

17 [(i) *ORS 813.010; or*]

18 [(ii) *The statutory counterpart to ORS 813.010 in another jurisdiction.*]

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

22 [(C) *A driving offense in another jurisdiction that involved operating a vehicle while having a*  
23 *blood alcohol content above that jurisdiction's permissible blood alcohol content.*]

24 [(c) *For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in an-*  
25 *other jurisdiction based solely on a person under 21 years of age having a blood alcohol content that*

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

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

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

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

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

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

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

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

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

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

21 (e) Any other relevant factors.

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

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

26 809.265. (1) Unless the court finds compelling circumstances not to order suspension of driving  
 27 privileges, the court in which a person is convicted of [*an offense described in this subsection*] **any**  
 28 **offense involving the manufacture, possession or delivery of controlled substances** shall pre-  
 29 pare and send to the Department of Transportation, within 24 hours of the conviction, an order of  
 30 suspension of driving privileges of the person. [*This subsection applies when a person is convicted*  
 31 *of:*]

32 [*(a) Any offense involving manufacturing, possession or delivery of controlled substances.*]

33 [*(b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal*  
 34 *ordinance if the person was under the influence of an inhalant or a controlled substance.*]

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

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

38 809.600. This section establishes the kinds of offenses and the number of convictions necessary  
 39 to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The kinds  
 40 of offenses and the number of convictions necessary to revoke driving privileges as a habitual  
 41 offender are as follows:

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

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

4 [(b) *Driving while under the influence of intoxicants under ORS 813.010.*]

5 [(c)] (b) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

6 [(d)] (c) Reckless driving under ORS 811.140.

7 [(e)] (d) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

8 [(f)] (e) Fleeing or attempting to elude a police officer under ORS 811.540.

9 [(g)] (f) Aggravated vehicular homicide under ORS 163.149.

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

13 (a) Any [offenses] **offense** enumerated in subsection (1) of this section.

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

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

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

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

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

23 **SECTION 4.** ORS 813.602 is amended to read:

24 813.602. (1) When a person is convicted of driving while under the influence of intoxicants in  
 25 violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation, in addition  
 26 to any other requirement, shall require that an approved ignition interlock device be installed and  
 27 used in any vehicle operated by the person **for five years after the ending date of the revocation**  
 28 **caused by the conviction. Violation of the condition imposed under this subsection is a Class**  
 29 **A traffic violation.**[.]

30 [(a) *Before the person is eligible for a hardship permit. The requirement is a condition of the*  
 31 *hardship permit for the duration of the hardship permit.*]

32 [(b) *For a first conviction, for one year after the ending date of the suspension or revocation caused*  
 33 *by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic vio-*  
 34 *lation.*]

35 [(c) *For a second or subsequent conviction, for two years after the ending date of the suspension*  
 36 *or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a*  
 37 *Class A traffic violation.*]

38 (2) If the court determines that approved ignition interlock devices are reasonably available, the  
 39 court may require as a condition of a driving while under the influence of intoxicants diversion  
 40 agreement that an approved ignition interlock device be installed in any vehicle operated by the  
 41 person. Courts may not exercise authority under this subsection during any period the courts have  
 42 notice from the Office of Economic Analysis of the Oregon Department of Administrative Services  
 43 that there are not sufficient moneys in the Intoxicated Driver Program Fund to pay the costs under  
 44 subsection [(4)] (5) of this section. The Office of Economic Analysis of the Oregon Department of  
 45 Administrative Services may not issue any notice under this subsection if federal funds are available

1 to pay the cost of the interlock devices for indigents and costs of analysis of the use of interlock  
 2 devices.

3 (3) Except as provided in subsection [(4)] (5) of this section, if an ignition interlock system is  
 4 ordered or required under subsection (1) or (2) of this section, the person so ordered or required  
 5 shall pay to the provider the reasonable costs of leasing, installing and maintaining the device. A  
 6 payment schedule may be established for the person by the department.

7 (4) **Except as provided in subsection (5) of this section, if an ignition interlock system is**  
 8 **required under subsection (1) or (2) of this section, the person so required shall pay \$30 to**  
 9 **the Department of Transportation for the administration of the ignition interlock program.**

10 [(4)] (5) The department may waive, in whole or in part, or defer the defendant's responsibility  
 11 to pay all or part of the costs under subsection (3) **and the fees under subsection (4)** of this sec-  
 12 tion if the defendant meets the criteria for indigence established for waiving or deferring such costs  
 13 under subsection [(5)] (6) of this section. If the defendant's responsibility for costs is waived, then  
 14 notwithstanding ORS 813.270, the costs described in subsection (3) of this section must be paid from  
 15 the Intoxicated Driver Program Fund.

16 [(5)] (6) The department, by rule, shall establish criteria and procedures it will use for quali-  
 17 fication to waive or defer costs **or fees** described under [subsection] **subsections (3) and (4)** of this  
 18 section for indigence. The criteria must be consistent with the standards for indigence adopted by  
 19 the federal government for purposes of the food stamp program.

20 [(6)] (7) At the end of the [suspension or] revocation resulting from the conviction, the depart-  
 21 ment shall suspend the driving privileges or right to apply for driving privileges of a person who  
 22 has not submitted proof to the department that an ignition interlock device has been installed or  
 23 who tampers with an ignition interlock device after it has been installed. If the suspension is for  
 24 failing to submit proof of installation, the suspension continues until the department receives proof  
 25 that the ignition interlock device has been installed or until one year after the ending date of the  
 26 [suspension] **revocation** resulting from the [first conviction or two years after the ending date of the  
 27 suspension resulting from a second or subsequent] conviction[, whichever comes first]. If the suspen-  
 28 sion is for tampering with an ignition interlock device, the suspension continues until one year after  
 29 the ending date of the [suspension] **revocation** resulting from the [first conviction or two years after  
 30 the ending date of the suspension resulting from a second or subsequent] conviction. A person whose  
 31 driving privileges or right to apply for privileges is suspended under this subsection is entitled to  
 32 administrative review, as described in ORS 809.440, of the action.

33 [(7)] (8) The department shall adopt rules permitting medical exemptions from the requirements  
 34 of installation and use of an ignition interlock device under subsection (1) of this section.

35 **SECTION 5.** ORS 813.610 is amended to read:

36 813.610. (1) A person commits the offense of unlawfully soliciting another to blow into an ig-  
 37 nition interlock device or start a motor vehicle equipped with an ignition interlock device if the  
 38 person has such a device as a result of an order or requirement under ORS 813.602 and the person  
 39 requests or solicits another to blow into the device or start the motor vehicle so as to circumvent  
 40 the device.

41 (2) The offense described in this section, unlawfully soliciting another to blow into an ignition  
 42 interlock device or start a motor vehicle equipped with an ignition interlock device, is a [Class A  
 43 traffic violation] **Class B misdemeanor**.

44 **SECTION 6.** ORS 813.614 is amended to read:

45 813.614. (1) A person commits the offense of tampering with an ignition interlock device if the

1 person does anything to a device that was ordered installed pursuant to ORS 813.602 that circum-  
 2 vents the operation of the device.

3 (2) The offense described in this section, tampering with an ignition interlock device, is a [*Class*  
 4 *A traffic violation*] **Class B misdemeanor.**

5 **SECTION 7. Sections 8 and 9 of this 2009 Act are added to and made a part of the Oregon**  
 6 **Vehicle Code.**

7 **SECTION 8. A person required by a court under ORS 813.602 to install an ignition inter-**  
 8 **lock device shall furnish to the court, within 30 days of the court order, satisfactory proof**  
 9 **that the device is installed on every vehicle owned or operated by the person.**

10 **SECTION 9. When a court orders installation of an ignition interlock device pursuant to**  
 11 **ORS 813.602, the provider of an ignition interlock device shall provide the reports generated**  
 12 **by the device to the court and the district attorney.**

13 **SECTION 10. The amendments to ORS 809.235, 809.265, 809.600, 813.602, 813.610 and 813.614**  
 14 **by sections 1 to 6 of this 2009 Act apply to offenses committed on or after the effective date**  
 15 **of this 2009 Act.**

16 **SECTION 11. ORS 813.400 and 813.500 are repealed.**

17 **SECTION 12. ORS 430.165 is amended to read:**

18 430.165. The Department of Human Services may prescribe fee schedules for any of the programs  
 19 that it establishes and operates under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to  
 20 430.880[, 813.500] and 813.510. The fees shall be charged and collected by the department in the same  
 21 manner as charges are collected under ORS 179.610 to 179.770. When the department acts under this  
 22 section, “person in a state institution” or “person at a state institution” or any similar phrase, as  
 23 defined in ORS 179.610, includes a person who receives services from a program for which fee  
 24 schedules are established under this section.

25 **SECTION 13. ORS 802.200, as amended by section 8, chapter 1, Oregon Laws 2008, is amended**  
 26 **to read:**

27 802.200. In addition to any other records the Department of Transportation may establish, the  
 28 department is subject to the following provisions concerning records:

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

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

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

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

37 (C) The vehicle description; and

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

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

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

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

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

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

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

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

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

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

14 (B) The name of the vehicle owner;

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

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

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

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

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

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

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

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

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

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

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

37 (a) An index by name and number.

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

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

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

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

44 (f) For each commercial driver license, the Social Security number of the person to whom the  
 45 license is issued, or any other number or identifying information that the Secretary of the United

1 States Department of Transportation determines appropriate to identify the person.

2 (9) The Department of Transportation shall maintain a two-part driving record consisting of an  
 3 employment driving record and a nonemployment driving record for each person as required under  
 4 this subsection. All of the following apply to the records required under this subsection:

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

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

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

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

11 (D) Every person who is required to provide future responsibility filings under ORS 806.200,  
 12 806.220, 806.230 or 806.240.

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

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

27 (B) Carrying persons or property for compensation;

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

31 (D) That is an authorized emergency vehicle;

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

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

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

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

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

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

43 (D) Diversion agreements entered into under ORS 813.220 within the preceding 10 years.

44 (d) The department may record other entries to indicate correspondence, interviews, partic-  
 45 ipation in driver improvement programs or other matters concerning the status of the driving priv-

1 illeges of the person.

2 (e) When a person from another jurisdiction applies for a driver license or driver permit issued  
 3 by this state, the department shall request a copy of the person’s driving record from the other ju-  
 4 risdiction. At the time the person is issued a license in Oregon, the record from the other jurisdic-  
 5 tion shall become part of the driver’s record in this state with the same force and effect as though  
 6 entered on the driver’s record in this state in the original instance. The department by rule may  
 7 specify methods for converting entries from out-of-state records for use in Oregon.

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

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

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

22 (11) The department shall maintain accident reports filed with the department under ORS  
 23 810.460 and 811.725 to 811.735.

24 (12) The department shall maintain records of bank checks or money orders returned under ORS  
 25 802.110.

26 (13) The department shall maintain records of trip permits issued by the department under ORS  
 27 803.600, as provided under this subsection. The records required by this subsection shall include the  
 28 following:

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

36 **SECTION 14.** ORS 802.550 is amended to read:

37 802.550. The following relate to the Driver License Compact under ORS 802.540:

38 (1) The Director of Transportation or the director’s deputy shall act as the compact adminis-  
 39 trator. The compact administrator shall not be entitled to any additional compensation on account  
 40 of service as compact administrator, but shall be entitled to expenses incurred in connection with  
 41 such service, payable the same as expenses in connection with services as the normal duties of the  
 42 person.

43 (2) When reference in the compact is made to the executive head in this state, the reference  
 44 applies to the Governor of this state.

45 (3) When reference in the compact is made to the licensing authority in this state, the reference



1 applies to the Department of Transportation.

2 (4) In accordance with subdivision (c) of Article IV of the compact, the following offenses or  
 3 violations provided by Oregon law hereby are designated as offenses or violations of a substantially  
 4 similar nature as the respective denominations and descriptions of conduct appearing in subdivision  
 5 (a) of Article IV of the compact.

6 (a) ORS 809.409 (1) and (2) - Article IV (a) (1).

7 (b) ORS [813.400] **809.409 (2)** - Article IV (a) (2).

8 (c) ORS 809.409 (5) - Article IV (a) (3).

9 (d) ORS 809.409 (3) - Article IV (a) (4).

10 (5) Offenses or violations other than those referred to in subsection (4) of this section reported  
 11 to the department pursuant to Article III of the compact shall be given effect within the purpose  
 12 of Article IV (b) of the compact as the other laws of this state provide.

13 **SECTION 15.** ORS 807.240 is amended to read:

14 807.240. The Department of Transportation shall provide for issuance of hardship driver permits  
 15 in a manner consistent with this section. A hardship driver permit grants the driving privileges  
 16 provided in this section or under the permit. Except as otherwise provided in this section, a hardship  
 17 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to  
 18 a license. The following apply to a hardship driver permit:

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

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

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

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

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

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

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

35 (C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment  
 36 or rehabilitation program;

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

40 (E) That the person's driving privileges are suspended for driving uninsured in violation of ORS  
 41 806.010 or for violation of ORS 165.805 or 471.430 and are not suspended for any other reason and  
 42 that the person must operate a motor vehicle in order to provide necessary services to the person  
 43 or to a member of the person's family. The department shall determine by rule what constitutes  
 44 necessary services for purposes of this subparagraph. The rule shall include as necessary services,  
 45 but need not be limited to, grocery shopping, driving the person or the person's children to school,

1 driving to medical appointments and caring for elderly family members.

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

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

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

11 (f) The person must submit any other information the department may require for purposes of  
 12 determining whether the person qualifies under this section, ORS 807.250, 807.252[ 813.500] and  
 13 813.520.

14 (4) If the department finds that the person meets the requirements of this section and any ap-  
 15 plicable requirements under ORS 807.250, 807.252[ 813.500] and 813.520, the department may issue  
 16 the person a hardship permit, valid for the duration of the suspension or for a shorter period of time  
 17 established by the department unless sooner suspended or revoked under this section. If the de-  
 18 partment issues the permit for a period shorter than the suspension period, renewal of the permit  
 19 shall be on such terms and conditions as the department may require. The permit:

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

21 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a  
 22 motor vehicle that the department deems proper or necessary. The limitations may include any  
 23 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS  
 24 811.175 or 811.182.

25 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of  
 26 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or  
 27 813.510, may suspend or revoke the hardship permit.

28 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver  
 29 permit application fee under ORS 807.370. The department may not refund the fee if the application  
 30 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit  
 31 is the same fee as that charged for renewal of a license. The application fee charged under this  
 32 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS  
 33 807.370.

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

37 **SECTION 16.** ORS 807.250 is amended to read:

38 807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions  
 39 under [ORS 813.500 and] **ORS** 813.520, the Department of Transportation may not issue a hardship  
 40 permit under ORS 807.240 to a person whose suspension of driving privileges is based upon a con-  
 41 viction of any of the following unless the person submits to the department a recommendation from  
 42 the judge before whom the person was convicted:

43 (a) ORS 811.140.

44 (b) ORS 811.540.

45 *[(c) Driving while under the influence of intoxicants. If a person's driving privileges are suspended*

1 for a conviction for driving while under the influence of intoxicants and the person is determined under  
 2 ORS 813.500 to have a problem condition involving alcohol, inhalants or controlled substances as de-  
 3 scribed in ORS 813.040, the judge must:]

4 [(A) Make the recommendation with reference to the best interest of the public as well as of the  
 5 defendant and the recommendation must be in writing.]

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

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

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

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

15 **SECTION 17.** ORS 809.240 is amended to read:

16 809.240. (1) If a person is convicted of an offense that will result in mandatory suspension or  
 17 revocation under ORS 809.409, 809.411, 809.413[, 813.400] or 813.403, the trial judge shall:

18 (a) Impose the revocation or suspension at the time of conviction for the required period; and

19 (b) Comply with the requirements under ORS 809.275 to take possession of the license or driver  
 20 permit of the person.

21 (2) When necessary to give full effect to this section, a court shall issue a temporary driver  
 22 permit under ORS 807.320.

23 **SECTION 18.** ORS 809.404 is amended to read:

24 809.404. (1) The Department of Transportation shall suspend a person's commercial driver li-  
 25 cense or right to apply for a commercial driver license if the person is disqualified from holding a  
 26 commercial driver license under this section. A person is entitled to administrative review under  
 27 ORS 809.440 of a suspension under this section.

28 (2) A person is disqualified from holding a commercial driver license if the person has [*two or*  
 29 *more of any of the following in any combination:*]

30 [(a)] a record of conviction for driving while under the influence of intoxicants under ORS  
 31 813.010 and the person was driving a motor vehicle or a commercial motor vehicle at the time of  
 32 the offense.

33 **(3) A person is disqualified from holding a commercial driver license if the person has a**  
 34 **record of two or more of any of the following in any combination:**

35 [(b)] (a) A suspension of the person's commercial driver license under ORS 813.410 for refusal  
 36 to submit to a test under ORS 813.100 and the person was driving a motor vehicle or a commercial  
 37 motor vehicle at the time of the offense.

38 [(c)] (b) A suspension of the person's commercial driver license under ORS 813.410 because the  
 39 person submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04  
 40 percent or more by weight of alcohol and the person was driving a commercial motor vehicle at the  
 41 time of the offense.

42 [(d)] (c) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties  
 43 of a driver and the person was driving a motor vehicle or a commercial motor vehicle at the time  
 44 of the offense.

45 [(e)] (d) A record of conviction of a crime punishable as a felony, other than a felony described

1 in subsection [(3)] (4) of this section, and the person was driving a motor vehicle or a commercial  
2 motor vehicle at the time of the offense.

3 [(f)] (e) A record of conviction for driving a commercial motor vehicle while, as a result of prior  
4 violations committed while driving a commercial motor vehicle, the person's commercial driver li-  
5 cense had been suspended or revoked.

6 [(g)] (f) A record of conviction of any degree of murder, manslaughter or criminally negligent  
7 homicide resulting from the operation of a commercial motor vehicle or assault in the first degree  
8 resulting from the operation of a commercial motor vehicle.

9 [(3)] (4) A person is disqualified from holding a commercial driver license if the person has a  
10 record of conviction for a crime punishable as a felony that involves the manufacturing, distributing  
11 or dispensing of a controlled substance, as defined in ORS 475.005, and in which a motor vehicle or  
12 a commercial motor vehicle was used. Notwithstanding subsection [(4)] (5) of this section, the de-  
13 partment may not issue or reinstate a commercial driver license for the lifetime of a person whose  
14 commercial driver license is suspended under this subsection.

15 [(4)] (5) Ten years after a person is disqualified from holding a commercial driver license under  
16 subsection (2) or (3) of this section, or 10 years after receiving a lifetime suspension under ORS  
17 809.413 (1), (2), (4) or (5), the person may apply to the department for the right to apply for a com-  
18 mercial driver license or for reinstatement of the person's commercial driver license. The depart-  
19 ment may issue or reinstate a commercial driver license to a person who meets all other  
20 requirements for the issuance of a commercial driver license if the department, in the discretion of  
21 the department, finds good cause shown and finds that the person voluntarily entered and success-  
22 fully completed rehabilitation as approved by the department.

23 [(5)] (6) Notwithstanding subsection [(4)] (5) of this section, if a person whose commercial driver  
24 license is issued or reinstated under subsection [(4)] (5) of this section receives a subsequent con-  
25 viction or suspension described in subsection [(2)] (3) of this section, the department shall suspend  
26 the person's commercial driver license or right to apply for a commercial driver license for the  
27 lifetime of the person.

28 [(6)] (7) For the purposes of this section:

29 (a) Second or subsequent records of conviction or suspensions apply only if the convictions or  
30 suspensions arose out of separate incidents.

31 (b) A record of conviction or suspension applies to a person who does not hold a commercial  
32 driver license only if the person was driving a commercial motor vehicle at the time of the com-  
33 mission of the offense.

34 **SECTION 19.** ORS 809.409 is amended to read:

35 809.409. (1)(a) Upon receipt of a record of conviction of an offense described in this section, the  
36 Department of Transportation shall revoke the driving privileges of the person convicted.

37 (b) A person is entitled to administrative review under ORS 809.440 of a revocation under this  
38 section.

39 (c) Except as otherwise provided in subsections (2) and (3) of this section, the revocation shall  
40 be for a period of one year from the date of revocation, except that the department may not rein-  
41 state driving privileges of any person whose privileges are revoked under this section until the  
42 person complies with future responsibility filings.

43 (2) The department shall take action under subsection (1) of this section upon receipt of a record  
44 of conviction of aggravated vehicular homicide or any degree of murder, manslaughter or criminally  
45 negligent homicide resulting from the operation of a motor vehicle, [or] assault in the first degree

1 resulting from the operation of a motor vehicle **or driving while under the influence of**  
 2 **intoxicants**, except that the provisions of this subsection do not apply to a person whose driving  
 3 privileges are ordered revoked under ORS 809.235. A person whose driving privileges are revoked  
 4 under this subsection may apply for reinstatement of driving privileges:

5 (a) If the sentence for the offense includes incarceration, eight years from the date the person  
 6 is released from incarceration for the offense; or

7 (b) If the sentence does not include incarceration, eight years from the date the department re-  
 8 voked the privileges under this subsection.

9 (3) The department shall take action under subsection (1) of this section upon receipt of a record  
 10 of conviction of failure to perform the duties of a driver to injured persons under ORS 811.705. The  
 11 department shall revoke driving privileges under this subsection for a period of five years if the  
 12 court indicates on the record of conviction that a person was killed as a result of the accident. The  
 13 person may apply for reinstatement of privileges five years after the date the person was released  
 14 from incarceration, if the sentence includes incarceration. If the sentence does not include  
 15 incarceration, the person may apply for reinstatement five years from the date the revocation was  
 16 imposed under this subsection.

17 (4) The department shall take action under subsection (1) of this section upon receipt of a record  
 18 of conviction of perjury or the making of a false affidavit to the department under any law of this  
 19 state requiring the registration of vehicles or regulating their operation on the highways.

20 (5) The department shall take action under subsection (1) of this section upon receipt of a record  
 21 of conviction of any felony with a material element involving the operation of a motor vehicle.

22 **SECTION 20.** ORS 809.412, as amended by section 3, chapter 49, Oregon Laws 2008, is amended  
 23 to read:

24 809.412. If a juvenile court finds a youth to be within the jurisdiction of the juvenile court under  
 25 ORS 419C.005 for committing an offense that is a ground for suspension or revocation upon con-  
 26 viction under ORS 809.409, 809.411, 809.413[, 813.400] or 813.403 or any other law requiring suspen-  
 27 sion or revocation of driving privileges upon conviction of an offense, the juvenile court shall impose  
 28 the suspension or revocation of driving privileges that is required upon conviction of the offense.

29 **SECTION 21.** ORS 809.428 is amended to read:

30 809.428. This section establishes schedules of suspension or revocation periods. The schedules  
 31 are applicable upon conviction for the offense when made applicable under ORS 809.411 [*and*  
 32 *813.400*]. The schedules are as follows:

33 (1) Schedule I. The suspension or revocation periods under Schedule I are as provided in this  
 34 subsection. The period of suspension or revocation under this schedule shall be:

35 (a) Ninety days for a first offense or for any offense not described in paragraph (b) or (c) of this  
 36 subsection.

37 (b) One year for a second offense, where the commission of the second offense and a conviction  
 38 for a separate offense occur within a five-year period. This paragraph applies to any combination  
 39 of offenses for which the length of suspension is determined under this subsection.

40 (c) Three years for a third or subsequent offense where the commission of the third or subse-  
 41 quent offense and two or more convictions for separate offenses occur within a five-year period.  
 42 This paragraph applies to any combination of offenses for which the length of suspension is deter-  
 43 mined under this subsection.

44 (2) Schedule II. The suspension or revocation periods under Schedule II are as provided in this  
 45 subsection. The period of suspension or revocation under this schedule shall be:

1 (a) One year for a first offense or for any offense not described in paragraph (b) or (c) of this  
2 subsection.

3 (b) Three years for a second offense, where the commission of the second offense and a con-  
4 viction for a separate offense occur within a five-year period.

5 (c) Three years for a third or subsequent offense, where the commission of the third or subse-  
6 quent offense and a conviction for a separate offense occur within a five-year period.

7 **SECTION 22.** ORS 809.460 is amended to read:

8 809.460. (1) Except as provided in subsection (4) of this section, if a suspension or revocation  
9 of driving privileges is based upon a conviction, the court that entered the judgment of conviction  
10 may direct the Department of Transportation to rescind the suspension or revocation if:

11 (a) The person has appealed the conviction; and

12 (b) The person requests in writing that the court direct the department to rescind the suspension  
13 or revocation pending the outcome of the appeal.

14 (2) If directed by a court pursuant to subsection (1) of this section to do so, the department shall  
15 immediately rescind a suspension or revocation of driving privileges.

16 (3) The court shall notify the department immediately if the conviction is affirmed on appeal, the  
17 appeal is dismissed or the appeal is not perfected within the statutory period. Upon receipt of notice  
18 under this subsection, the department shall reimpose any suspension or revocation that has been  
19 rescinded under this section.

20 (4) If a person's commercial driver license was suspended **or revoked** under ORS 809.404,  
21 809.413 or 813.403, the department shall not rescind suspension of the person's commercial driver  
22 license because the person has taken an appeal, unless the conviction is reversed on appeal.

23 **SECTION 23.** ORS 810.375 is amended to read:

24 810.375. (1) The judge or clerk of every court of this state having jurisdiction of any traffic of-  
25 fense, including all local and municipal judicial officers in this state:

26 (a) Shall keep a full record of every case in which a person is charged with any such offense.

27 (b) Shall send the Department of Transportation an abstract of conviction for any person who  
28 is convicted.

29 (c) Shall send the department a copy of any final judgment of conviction of any person which  
30 results in mandatory suspension or revocation of driving privileges or commercial driver license  
31 under ORS 809.404, 809.407, 809.409, 809.411, 809.413[ *813.400*] or 813.403.

32 (d) Shall send the department a copy of any final judgment finding a person charged with a  
33 traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security  
34 Review Board.

35 (2) The department shall keep such records in its office, and they shall be open to the inspection  
36 of any person during reasonable business hours.

37 (3) To comply with this section, a judge or clerk must comply with the following:

38 (a) Any information required by this section to be sent to the department must be sent within  
39 the time provided under ORS 810.370 and must include information required by ORS 810.370.

40 (b) Information shall not be sent to the department under this section concerning convictions  
41 excluded from ORS 810.370.

42 **SECTION 24.** ORS 811.182 is amended to read:

43 811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the  
44 person violates ORS 811.175 and the suspension or revocation is one described in this section, or if  
45 the hardship or probationary permit violated is based upon a suspension or revocation described in

1 subsection (3) or (4) of this section.

2 (2) Affirmative defenses to the offense described in this section are established under ORS  
3 811.180.

4 (3) The offense described in this section, criminal driving while suspended or revoked, is a Class  
5 B felony if the suspension or revocation resulted from any degree of murder, manslaughter,  
6 criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the sus-  
7 pension or revocation resulted from aggravated vehicular homicide or if the revocation resulted  
8 from a conviction for [*felony*] driving while under the influence of intoxicants.

9 (4) The offense described in this section, criminal driving while suspended or revoked, is a Class  
10 A misdemeanor if the suspension or revocation is any of the following:

11 (a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree  
12 of recklessly endangering another person, menacing or criminal mischief, resulting from the opera-  
13 tion of a motor vehicle.

14 (b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit  
15 to the Department of Transportation.

16 (c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS  
17 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content  
18 of:

19 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

20 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

21 (C) Any amount if the person was under 21 years of age.

22 (d) A suspension of a commercial driver license under ORS 809.413 (1) resulting from failure to  
23 perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

24 (e) A suspension of a commercial driver license under ORS 809.413 (12) where the person's  
25 commercial driving privileges have been suspended or revoked by the other jurisdiction for failure  
26 of or refusal to take a chemical test to determine the alcoholic content of the person's blood under  
27 a statute that is substantially similar to ORS 813.100.

28 (f) A suspension of a commercial driver license under ORS 809.404.

29 (g) A revocation resulting from habitual offender status under ORS 809.640.

30 (h) A suspension resulting from any crime punishable as a felony with proof of a material ele-  
31 ment involving the operation of a motor vehicle, other than a crime described in subsection (3) of  
32 this section.

33 (i) A suspension for failure to perform the duties of a driver under ORS 811.705.

34 (j) A suspension for reckless driving under ORS 811.140.

35 (k) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

36 [*L*] A suspension or revocation resulting from misdemeanor driving while under the influence of  
37 intoxicants under ORS 813.010.]

38 [*m*] (L) A suspension for use of a commercial motor vehicle in the commission of a crime  
39 punishable as a felony.

40 (5) In addition to any other sentence that may be imposed, if a person is convicted of the offense  
41 described in this section and the underlying suspension resulted from driving while under the influ-  
42 ence of intoxicants, the court shall impose a fine of at least \$1,000 if it is the person's first con-  
43 viction for criminal driving while suspended or revoked and at least \$2,000 if it is the person's  
44 second or subsequent conviction.

45 (6) The Oregon Criminal Justice Commission shall classify a violation of this section that is a

1 felony as crime category 6 of the rules of the Oregon Criminal Justice Commission.

2 **SECTION 25.** ORS 813.040 is amended to read:

3 813.040. This section establishes, for purposes of ORS 471.432[,] **and** 807.060 [*and 813.500*], when  
 4 a person has a problem condition involving alcohol, inhalants or controlled substances. For pur-  
 5 poses of ORS 471.432[,] **and** 807.060 [*and 813.500*], a person has a problem condition involving alco-  
 6 hol, inhalants or controlled substances if it is determined that the person has a problem condition  
 7 in which the person’s health or that of others is substantially impaired or endangered or the per-  
 8 son’s social or economic function is substantially disrupted because of the person’s:

9 (1) Habitual or periodic use of alcoholic beverages; or

10 (2) Use of or loss of the ability to control the use of controlled substances, inhalants or other  
 11 substances with abuse potential including a condition that may have developed:

12 (a) A physical dependence in which the body requires a continuing supply of a drug, inhalant  
 13 or controlled substance to avoid characteristic withdrawal symptoms; or

14 (b) A psychological dependence characterized by an overwhelming mental desire for continued  
 15 use of a drug, inhalant or controlled substance.

16 **SECTION 26.** ORS 813.403 is amended to read:

17 813.403. Driving a commercial motor vehicle upon any highway or on premises open to the  
 18 public while under the influence of intoxicants constitutes grounds for commercial driver license  
 19 suspension. The following apply to this section:

20 (1) Upon receipt of a record of conviction for driving while under the influence of intoxicants,  
 21 the Department of Transportation shall [*suspend*] **revoke** the person’s commercial driver license if  
 22 the person was driving a commercial motor vehicle at the time the person committed the offense.

23 (2) The [*suspension*] **revocation** shall be for a period described under ORS 813.404.

24 (3) A person is entitled to administrative review under ORS 809.440 of a [*suspension*] **revocation**  
 25 imposed under this section.

26 [*(4) Suspension under this section is in addition to any suspension under ORS 813.400.*]

27 **SECTION 27.** ORS 813.404 is amended to read:

28 813.404. When the Department of Transportation imposes a suspension **or revocation** of a  
 29 commercial driver license under ORS 813.403 or 813.410 (2), or when the department imposes a sus-  
 30 pension of a commercial driver license under ORS 809.413 (11) or (12) for conduct in another juris-  
 31 diction that is substantially similar to that described in either ORS 813.403 or 813.410 (2), the  
 32 suspension **or revocation** shall be:

33 (1) For a period of one year if:

34 (a) The person has not previously been convicted of an offense described in ORS 809.404 or had  
 35 a commercial driver license suspended as described in ORS 809.404;

36 (b) The person was not driving a commercial motor vehicle containing a hazardous material at  
 37 the time of the offense; and

38 (c) The suspension is [*either because the person was convicted under ORS 813.010 or*] because a  
 39 breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the per-  
 40 son’s blood that was 0.04 percent or more by weight.

41 (2) For a period of three years if:

42 (a) The person has not previously been convicted of an offense described in ORS 809.404 or had  
 43 a commercial driver license suspended as described in ORS 809.404;

44 (b) The person was not driving a commercial motor vehicle containing a hazardous material at  
 45 the time of the offense; and



1 (c) The suspension is for refusal of a test under ORS 813.100.

2 (3) For a period of three years if:

3 (a) The person has not previously been convicted of an offense described in ORS 809.404 or had  
4 a commercial driver license suspended as described in ORS 809.404;

5 (b) The person was driving a commercial motor vehicle containing a hazardous material at the  
6 time of the offense; and

7 (c) The suspension is [*either because the person was convicted under ORS 813.010 or*] because a  
8 breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the per-  
9 son's blood that was 0.04 percent or more by weight.

10 (4) For a period of five years if:

11 (a) The person has not previously been convicted of an offense described in ORS 809.404 or had  
12 a commercial driver license suspended as described in ORS 809.404;

13 (b) The person was driving a commercial motor vehicle containing a hazardous material at the  
14 time of the offense; and

15 (c) The suspension is for refusal of a test under ORS 813.100.

16 **(5) For a period of 10 years if the person was convicted under ORS 813.010.**

17 [(5)] (6) For the lifetime of the person if the person has previously been convicted of an offense  
18 described in ORS 809.404 or had a commercial driver license suspended as described in ORS 809.404.

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

20 813.470. The Department of Transportation shall make a notation on the driving record of a  
21 person indicating that the person was acquitted of a charge of driving under the influence of  
22 intoxicants if:

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

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

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

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

33 **SECTION 29.** ORS 813.510 is amended to read:

34 813.510. This section establishes limitations that the Department of Transportation is required  
35 or permitted to place on hardship permits issued under ORS 807.240 to persons whose suspension is  
36 based upon [*a conviction for driving under the influence of intoxicants or upon*] ORS 813.100. Limita-  
37 tions placed on a hardship permit under this section are in addition to any limitations placed on the  
38 permit under ORS 807.240. A person's permit is subject to suspension or revocation as provided  
39 under ORS 807.240 if the department determines that the holder of the permit has violated any  
40 limitation placed upon the permit under this section. Violation of a limitation under this section is  
41 punishable as provided by ORS 811.175 or 811.182. The limitations are as described in the following:

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

43 (a) To the times, places, routes and days the department determines to be minimally necessary  
44 for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabili-  
45 tation program or to obtain required medical treatment for the person or a member of the person's

1 immediate family; and

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

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

6 (3) If the person is in a rehabilitation program under [ORS 813.500] **subsection (7) of this**  
7 **section**, the person must complete the rehabilitation program.

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

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

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

15 (a) Reckless driving under ORS 811.140.

16 (b) Driving under the influence of intoxicants under ORS 813.010.

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

18 (d) Fleeing or attempting to elude a police officer under ORS 811.540.

19 (e) Driving while suspended or revoked under ORS 811.175 or 811.182.

20 **(7) If the Director of Human Services determines that the person has a problem condition**  
21 **involving alcohol, inhalants or controlled substances, as described in ORS 813.040, the de-**  
22 **partment may issue the permit to the person only if both of the following apply:**

23 **(a) The person enrolled in a program for rehabilitation for alcoholism or drug dependence**  
24 **approved by the director.**

25 **(b) The director recommends, on the basis of the person's progress in the rehabilitation**  
26 **program, such reinstatement in writing to the department. If the director makes a recom-**  
27 **mendation under this paragraph, the director shall state specifically in the recommendation**  
28 **the times, places, routes and days of the week minimally necessary for the person to seek**  
29 **or retain employment, to attend any alcohol or drug treatment or rehabilitation program or**  
30 **to obtain necessary medical treatment for the person or a member of the person's immediate**  
31 **family.**

32 **SECTION 30.** ORS 813.520 is amended to read:

33 813.520. In addition to any provisions of ORS 807.240 and 813.510 or 807.250, this section estab-  
34 lishes limitations on the authority of the Department of Transportation to issue driving privileges  
35 under ORS 807.240. The department may not reinstate any driving privileges or issue any hardship  
36 permit under ORS 807.240 as provided under any of the following:

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

42 (2) For a period of 30 days after the beginning of the suspension if the suspension is because a  
43 breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the per-  
44 son's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and  
45 the person is not subject to an increase in the time before a hardship permit may be issued for

1 reasons described in ORS 813.430. *[This period of 30 days shall be reduced by the time the department*  
 2 *refused to issue a hardship permit under subsection (5) or (6) of this section if the person's driving*  
 3 *privileges were suspended based on the same occurrence.]*

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

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

16 (5) *For a period of 90 days after the beginning of the suspension under ORS 813.400 if it is the*  
 17 *person's second conviction for driving while under the influence of intoxicants if the suspension period*  
 18 *is determined by ORS 809.428 (2)(b). This period of 90 days shall be reduced by the time the depart-*  
 19 *ment refused to issue a hardship permit under subsection (1), (2), (3) or (4) of this section if the person's*  
 20 *driving privileges were suspended based on the same occurrence.]*

21 (6) *For a period of one year after the beginning of the suspension under ORS 813.400 for driving*  
 22 *while under the influence of intoxicants if the suspension period is determined by ORS 809.428 (2)(c).*  
 23 *This period of one year shall be reduced by the time the department refused to issue a hardship permit*  
 24 *under subsection (1), (2), (3) or (4) of this section if the person's driving privileges were suspended*  
 25 *based on the same occurrence.]*

26 [(7)] (5) To any person who has a mental or physical condition or impairment that affects the  
 27 person's ability to safely operate a motor vehicle.

28 [(8)] (6) If the suspension *[is based upon a conviction for a violation of ORS 813.010 or]* is imposed  
 29 under ORS 813.410 based upon ORS 813.100 to a person who has available public or private trans-  
 30 portation sufficient to fulfill the person's transportation needs while the person is suspended.

31 [(9)] (7) For a period of 30 days following imposition of suspension, if the person, within the  
 32 previous year, has been convicted of a traffic crime and the suspension *[is based upon a conviction*  
 33 *for violation of ORS 813.010 or]* is imposed under ORS 813.410 based upon ORS 813.100.

34 **SECTION 31.** ORS 813.606 is amended to read:

35 813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the  
 36 person's employment, to operate a motor vehicle owned by the person's employer, the person may  
 37 operate that vehicle without installation of an ignition interlock device if:

38 (1) The employer has been notified that the employee is operating with a hardship permit re-  
 39 stricted as provided in ORS 813.604 or the employee is operating on a fully reinstated license within  
 40 the first six months following *[suspension or]* revocation for driving while under the influence of  
 41 intoxicants; and

42 (2) The employee has proof of the notification or fully reinstated license in the possession of the  
 43 employee while operating the employer's vehicle in the course of employment.

44 **SECTION 32.** The amendments to ORS 802.200, 802.550, 807.240, 807.250, 809.240, 809.404,  
 45 809.409, 809.412, 809.428, 809.460, 810.375, 811.182, 813.040, 813.403, 813.404, 813.470, 813.510,

1 **813.520 and 813.606 by sections 13 to 31 of this 2009 Act and the repeal of ORS 813.400 and**  
2 **813.500 by section 11 of this 2009 Act apply to offenses committed on or after the effective**  
3 **date of this 2009 Act.**

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