

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2103

By COMMITTEE ON JUDICIARY

June 8

1 In line 2 of the printed A-engrossed bill, after “intoxicants” insert “; creating new provisions;
2 amending ORS 813.200; and declaring an emergency”.

3 In line 5, after “813.240” insert “who is eligible for the state medical assistance program”.

4 In line 7, after “services” insert “that are covered under the state medical assistance
5 program”.

6 After line 12, insert:

7 “**SECTION 3.** ORS 813.200 is amended to read:

8 “813.200. (1) The court shall inform at arraignment a defendant charged with the offense of
9 driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance con-
10 forming thereto that a diversion agreement may be available if the defendant meets the criteria set
11 out in ORS 813.215 and files with the court a petition for a driving while under the influence of
12 intoxicants diversion agreement.

13 “(2) The petition forms for a driving while under the influence of intoxicants diversion agree-
14 ment shall be available to a defendant at the court.

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

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

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

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

27 “(c) An agreement by the defendant to complete, at defendant’s own expense based on
28 defendant’s ability to pay, the program of treatment indicated as necessary by the diagnostic as-
29 sessment;

30 “(d) **Except as provided in subsection (5) of this section,** an agreement by the defendant to
31 not use intoxicants **during the diversion period** [*in conjunction with the defendant’s operation of a*
32 *motor vehicle*] and to comply fully with the laws of this state designed to discourage the use of
33 intoxicants [*in conjunction with motor vehicle operation*];

34 “(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

1 offense of driving while under the influence of intoxicants or committed a violation of ORS 811.170;

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

4 “(g) A waiver by the defendant of any former jeopardy rights under the federal and state Con-
5 stitutions and ORS 131.505 to 131.525 in any subsequent action upon the charge or any other of-
6 fenses based upon the same criminal episode;

7 “(h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defend-
8 ant meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the
9 influence of intoxicants diversion agreement; and

10 “(i) An agreement by the defendant to pay court-appointed attorney fees as determined by the
11 court.

12 **“(5) A person may use intoxicants during the diversion period if:**

13 **“(a) The person consumes sacramental wine given or provided as part of a religious rite
14 or service;**

15 **“(b) The person has a valid prescription for a substance and the person takes the sub-
16 stance as directed; or**

17 **“(c) The person is using a nonprescription drug, as defined in ORS 689.005, in accordance
18 with the directions for use that are printed on the label for that nonprescription drug.**

19 **“SECTION 4. The amendments to ORS 813.200 by section 3 of this 2011 Act apply to di-
20 version agreements entered into on or after the effective date of this 2011 Act.**

21 **“SECTION 5. This 2011 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
23 on its passage.”.**

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