

**A-Engrossed**  
**House Bill 2141**

Ordered by the House April 26  
Including House Amendments dated April 26

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

**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.

Proscribes use [*or possession*] of intoxicants while person is participating in diversion. **Creates exceptions.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to the use of intoxicants while participating in diversion; creating new provisions; amend-  
3 ing ORS 813.200; and declaring an emergency.

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

5 **SECTION 1.** ORS 813.200 is amended to read:

6 813.200. (1) The court shall inform at arraignment a defendant charged with the offense of  
7 driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance con-  
8 forming thereto that a diversion agreement may be available if the defendant meets the criteria set  
9 out in ORS 813.215 and files with the court a petition for a driving while under the influence of  
10 intoxicants diversion agreement.

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

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

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

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

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

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

27 (d) **Except as provided in subsection (5) of this section,** an agreement by the defendant to

**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 not use intoxicants **during the diversion period** [*in conjunction with the defendant's operation of a*  
2 *motor vehicle*] and to comply fully with the laws of this state designed to discourage the use of  
3 intoxicants [*in conjunction with motor vehicle operation*];

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

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

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

12 (h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defendant  
13 meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the  
14 influence of intoxicants diversion agreement; and

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

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

18 **(a) The person consumes sacramental wine given or provided as part of a religious rite**  
19 **or service; or**

20 **(b) The person has a valid prescription for a substance and the person takes the sub-**  
21 **stance as directed.**

22 **SECTION 2. The amendments to ORS 813.200 by section 1 of this 2011 Act apply to di-**  
23 **version agreements entered into on or after the effective date of this 2011 Act.**

24 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**  
25 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
26 **on its passage.**

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