

HOUSE AMENDMENTS TO HOUSE BILL 2141

By COMMITTEE ON JUDICIARY

April 26

1 On page 1 of the printed bill, line 3, delete “419C.225 and”.

2 Delete lines 5 through 31 and delete page 2 and insert:

3 “**SECTION 1.** ORS 813.200 is amended to read:

4 “813.200. (1) The court shall inform at arraignment a defendant charged with the offense of
5 driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance con-
6 forming thereto that a diversion agreement may be available if the defendant meets the criteria set
7 out in ORS 813.215 and files with the court a petition for a driving while under the influence of
8 intoxicants diversion agreement.

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

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

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

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

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

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

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

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

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

35 “(g) A waiver by the defendant of any former jeopardy rights under the federal and state Con-

1stitutions and ORS 131.505 to 131.525 in any subsequent action upon the charge or any other of-
2fenses based upon the same criminal episode;

3“(h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defend-
4ant meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the
5influence of intoxicants diversion agreement; and

6“(i) An agreement by the defendant to pay court-appointed attorney fees as determined by the
7court.

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

9“(a) The person consumes sacramental wine given or provided as part of a religious rite
10or service; or

11“(b) The person has a valid prescription for a substance and the person takes the sub-
12stance as directed.

13“SECTION 2. The amendments to ORS 813.200 by section 1 of this 2011 Act apply to di-
14version agreements entered into on or after the effective date of this 2011 Act.

15“SECTION 3. This 2011 Act being necessary for the immediate preservation of the public
16peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
17on its passage.”.