

House Bill 2141

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). 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 **as introduced**.

Proscribes use or possession of intoxicants while person is participating in diversion.
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 419C.225 and 813.200; and declaring an emergency.

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

5 **SECTION 1.** ORS 419C.225 is amended to read:

6 419C.225. (1) Following a review of a police report and other relevant information, a county ju-
7 venile department may refer a youth to an authorized diversion program if the youth is eligible to
8 enter into a formal accountability agreement under ORS 419C.230.

9 (2) An authorized diversion program may include a youth court, mediation program, crime pre-
10 vention or chemical substance abuse education program or other program established for the pur-
11 pose of providing consequences and reformation and preventing future delinquent acts.

12 (3) An authorized diversion program for a youth who is alleged to have committed an act that
13 is a violation of ORS 813.010 must include an agreement that the youth will not use **or possess**
14 intoxicants while the youth is participating in the diversion program.

15 **SECTION 2.** ORS 813.200 is amended to read:

16 813.200. (1) The court shall inform at arraignment a defendant charged with the offense of
17 driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance con-
18 forming thereto that a diversion agreement may be available if the defendant meets the criteria set
19 out in ORS 813.215 and files with the court a petition for a driving while under the influence of
20 intoxicants diversion agreement.

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

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

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

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

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

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

6 (d) An agreement by the defendant to not use **or possess** intoxicants **during the diversion**
7 **period** [*in conjunction with the defendant's operation of a motor vehicle*] and to comply fully with the
8 laws of this state designed to discourage the use of intoxicants [*in conjunction with motor vehicle*
9 *operation*];

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

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

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

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

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

23 **SECTION 3. The amendments to ORS 419C.225 and 813.200 by sections 1 and 2 of this 2011**
24 **Act apply to diversion agreements entered into on or after the effective date of this 2011 Act.**

25 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
27 **on its passage.**

28