

# House Bill 2424

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Rules)

## 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**.

Repeals provisions of Ballot Measure 73 (2010). Reenacts substantive provisions for crimes committed on or after January 1, 2013.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to crime; creating new provisions; amending ORS 813.010; repealing sections 1, 2 and 3,  
3 chapter 1, Oregon Laws 2011; declaring an emergency; and providing for criminal sentence re-  
4 duction that requires approval by a two-thirds majority.

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

6 **SECTION 1. (1) When a person is convicted of a major felony sex crime, the person shall**  
7 **be imprisoned for a mandatory minimum term of 25 years if the person has a previous con-**  
8 **viction for a major felony sex crime.**

9 (2) **As used in this section:**

10 (a) **“Major felony sex crime” means:**

11 (A) **Rape in the first degree as defined in ORS 163.375;**

12 (B) **Sodomy in the first degree as defined in ORS 163.405;**

13 (C) **Unlawful sexual penetration in the first degree under ORS 163.411; or**

14 (D) **Using a child in a display of sexually explicit conduct under ORS 163.670.**

15 (b) **“Previous conviction” includes:**

16 (A) **A conviction for the statutory counterpart of a major felony sex crime in any juris-**  
17 **diction; and**

18 (B) **A conviction that was entered prior to imposing sentence on the current crime pro-**  
19 **vided that the prior conviction is based on a crime committed in a separate criminal episode.**

20 **SECTION 2. ORS 813.010 is amended to read:**

21 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if  
22 the person drives a vehicle while the person:

23 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by  
24 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

25 (b) Is under the influence of intoxicating liquor, a controlled substance or an inhalant; or

26 (c) Is under the influence of any combination of intoxicating liquor, an inhalant and a controlled  
27 substance.

28 (2) A person may not be convicted of driving while under the influence of intoxicants on the  
29 basis of being under the influence of a controlled substance or an inhalant unless the fact that the  
30 person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory

**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 instrument and is either proved at trial or is admitted by the person through a guilty plea.

2 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-  
 3 dition to this section.

4 (4) Except as provided in subsection (5) of this section, the offense described in this section,  
 5 driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon  
 6 any premises open to the public.

7 (5)(a) Driving while under the influence of intoxicants is a Class C felony if [*the current offense*  
 8 *was committed in a motor vehicle and*] the person has, at least [*three*] **two** times in the 10 years prior  
 9 to the date of the current offense, been convicted of, or been found to be within the jurisdiction of  
 10 the juvenile court for an act that if committed by an adult would be, any of the following offenses  
 11 in any combination:

12 (A) Driving while under the influence of intoxicants in violation of:

13 (i) This section; or

14 (ii) The statutory counterpart to this section in another jurisdiction.

15 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the  
 16 impaired driving or operation of a vehicle, an aircraft or a boat due to the use of intoxicating liquor,  
 17 a controlled substance, an inhalant or any combination thereof.

18 (C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a  
 19 boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol con-  
 20 tent.

21 **(b) Notwithstanding paragraph (a) of this subsection, driving while under the influence**  
 22 **of intoxicants is a Class C felony if the offense is committed by a person who has previously**  
 23 **been sentenced for a felony under this section.**

24 [(b)] (c) For the purposes of paragraph (a) of this subsection, a conviction or adjudication for a  
 25 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood  
 26 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a  
 27 person 21 years of age or older does not constitute a prior conviction or adjudication.

28 (6) In addition to any other sentence that may be imposed, the court shall impose:

29 **(a) A mandatory minimum term of incarceration of 90 days, without reduction for any**  
 30 **reason, for a felony conviction under this section; and**

31 **(b) One or more of the following fines on a person convicted of driving while under the influence**  
 32 **of intoxicants as follows:**

33 [(a)] **(A)** For a person's first conviction, a minimum of \$1,000.

34 [(b)] **(B)** For a person's second conviction, a minimum of \$1,500.

35 [(c)] **(C)** For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not  
 36 sentenced to a term of imprisonment.

37 [(d)] **(D)** For a person who drives a vehicle while the person has 0.15 percent or more by weight  
 38 of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the  
 39 person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

40 (7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a  
 41 person convicted of driving while under the influence of intoxicants if:

42 (a) The current offense was committed in a motor vehicle; and

43 (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least  
 44 three years younger than the person driving the motor vehicle.

45 **SECTION 3. When a person is convicted of felony driving while under the influence of**

1 **intoxicants under ORS 813.010 (5), the state shall fully reimburse the county for the county's**  
2 **costs of incarcerating the person, including the costs of pretrial incarceration.**

3 **SECTION 4. (1) Sections 1 and 3 of this 2011 Act and the amendments to ORS 813.010 by**  
4 **section 2 of this 2011 Act become operative on January 1, 2013.**

5 **(2) Except as otherwise provided in section 5 of this 2011 Act, section 1 of this 2011 Act**  
6 **and the amendments to ORS 813.010 by section 2 of this 2011 Act apply to:**

7 **(a) Crimes committed on or after January 1, 2013; and**

8 **(b) Previous convictions entered before, on or after January 1, 2013.**

9 **(3) Section 3 of this 2011 Act applies to convictions for crimes committed on or after**  
10 **January 1, 2013.**

11 **SECTION 5. ORS 813.010 (5)(b), as enacted by section 2 of this 2011 Act, applies to persons**  
12 **who have previously been sentenced for a felony under ORS 813.010 only if the previous**  
13 **sentencing was for a crime committed:**

14 **(1) On or after December 2, 2010, and before the effective date of this 2011 Act; or**

15 **(2) On or after January 1, 2013.**

16 **SECTION 6. Sections 1, 2 and 3, chapter 1, Oregon Laws 2011, are repealed.**

17 **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
19 **on its passage.**

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