

# House Bill 2767

Sponsored by Representative THATCHER (Pre-session filed.)

## 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**.

Directs court to require installation of ignition interlock device as condition of driving while under influence of intoxicants diversion agreement. Punishes violation of condition by maximum fine of \$720.

Directs providers of ignition interlock devices to report installation and removal of devices to court. Directs providers of ignition interlock devices to submit periodic inspection reports to court.

## A BILL FOR AN ACT

1  
2 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.600 and  
3 813.602.

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

5 **SECTION 1.** ORS 813.600 is amended to read:

6 813.600. (1) The Department of Transportation, in consultation with the Transportation Safety  
7 Committee, shall establish a program for the use of ignition interlock devices by persons convicted  
8 of driving under the influence of intoxicants and granted hardship permits under ORS 807.240 **and**  
9 **by persons who have entered into a driving while under the influence of intoxicants diversion**  
10 **agreement.**

11 (2) The department shall adopt rules that specify requirements for ignition interlock devices that  
12 may be used and shall publish a list of devices that meet the requirements. The list may include  
13 devices that:

14 (a) Do not impede the safe operation of the vehicle;

15 (b) Have the fewest opportunities to be bypassed;

16 (c) Correlate well with established measures of alcohol impairment;

17 (d) Work accurately and reliably in an unsupervised environment;

18 (e) Require a deep lung breath sample or other accurate measure of blood alcohol content  
19 equivalence;

20 (f) Resist tampering and give evidence if tampering is attempted;

21 (g) Are difficult to circumvent, and require premeditation to do so;

22 (h) Minimize inconvenience to a sober user;

23 (i) Operate reliably over the range of automobile environments or automobile manufacturing  
24 standards;

25 (j) Are manufactured by a party who is adequately insured for product liability; and

26 (k) Have a label affixed in a prominent location warning that any person tampering with, cir-  
27 cumventing or otherwise misusing the device is subject to civil penalty.

28 **SECTION 2.** ORS 813.602 is amended to read:

29 813.602. (1) When a person is convicted of driving while under the influence of intoxicants in  
30 violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation, in addition

**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 to any other requirement, shall require that an approved ignition interlock device be installed and  
2 used in any vehicle operated by the person:

3 (a) Before the person is eligible for a hardship permit. The requirement is a condition of the  
4 hardship permit for the duration of the hardship permit.

5 (b) For a first conviction, for one year after the ending date of the suspension or revocation  
6 caused by the conviction. Violation of the condition imposed under this paragraph is a Class A  
7 traffic violation.

8 (c) For a second or subsequent conviction, for two years after the ending date of the suspension  
9 or revocation caused by the conviction. Violation of the condition imposed under this paragraph is  
10 a Class A traffic violation.

11 (2) *[If the court determines that approved ignition interlock devices are reasonably available,]* The  
12 court *[may]* **shall** require as a condition of a driving while under the influence of intoxicants di-  
13 version agreement that an approved ignition interlock device be installed in any vehicle operated  
14 by the person **during the period of the agreement when the person has driving privileges. In**  
15 **addition to any action taken under ORS 813.255, violation of the condition imposed under this**  
16 **subsection is a Class A traffic violation.** *[Courts may not exercise authority under this subsection*  
17 *during any period the courts have notice from the Office of Economic Analysis of the Oregon Depart-*  
18 *ment of Administrative Services that there are not sufficient moneys in the Intoxicated Driver Program*  
19 *Fund to pay the costs under subsection (4) of this section. The Office of Economic Analysis of the*  
20 *Oregon Department of Administrative Services may not issue any notice under this subsection if federal*  
21 *funds are available to pay the cost of the interlock devices for indigents and costs of analysis of the*  
22 *use of interlock devices].*

23 (3) Except as provided in subsection (4) of this section, if an ignition interlock system is ordered  
24 or required under subsection (1) or (2) of this section, the person so ordered or required shall pay  
25 to the provider the reasonable costs of leasing, installing and maintaining the device. A payment  
26 schedule may be established for the person by the department.

27 (4) The department may waive, in whole or in part, or defer the defendant's responsibility to pay  
28 all or part of the costs under subsection (3) of this section if the defendant meets the criteria for  
29 indigence established for waiving or deferring such costs under subsection (5) of this section. If the  
30 defendant's responsibility for costs is waived, then notwithstanding ORS 813.270, the costs described  
31 in subsection (3) of this section must be paid from the Intoxicated Driver Program Fund.

32 (5) The department, by rule, shall establish criteria and procedures it will use for qualification  
33 to waive or defer costs described under subsection (3) of this section for indigence. The criteria must  
34 be consistent with the standards for indigence adopted by the federal government for purposes of  
35 the Supplemental Nutrition Assistance Program.

36 (6) At the end of the suspension or revocation resulting from the conviction, the department  
37 shall suspend the driving privileges or right to apply for driving privileges of a person who has not  
38 submitted proof to the department that an ignition interlock device has been installed or who  
39 tampers with an ignition interlock device after it has been installed. If the suspension is for failing  
40 to submit proof of installation, the suspension continues until the department receives proof that the  
41 ignition interlock device has been installed or until one year after the ending date of the suspension  
42 resulting from the first conviction or two years after the ending date of the suspension resulting  
43 from a second or subsequent conviction, whichever comes first. If the suspension is for tampering  
44 with an ignition interlock device, the suspension continues until one year after the ending date of  
45 the suspension resulting from the first conviction or two years after the ending date of the suspen-

1 sion resulting from a second or subsequent conviction. A person whose driving privileges or right  
2 to apply for privileges is suspended under this subsection is entitled to administrative review, as  
3 described in ORS 809.440, of the action.

4 (7) The department shall adopt rules permitting medical exemptions from the requirements of  
5 installation and use of an ignition interlock device under subsection (1) of this section.

6 **(8) When a person is required to install an ignition interlock device under subsection (2)**  
7 **of this section, the provider of the device shall provide to the court that ordered installation**  
8 **of the device:**

9 **(a) Notices of any installation or removal of an ignition interlock device by the provider;**  
10 **and**

11 **(b) Copies of periodic inspection reports monitoring the use of the device every 60 days.**

12 **SECTION 3. The amendments to ORS 813.602 by section 2 of this 2011 Act apply to of-**  
13 **fenses that occur on or after the effective date of this 2011 Act.**

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