

A-Engrossed
House Bill 3075

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

Sponsored by Representatives HUNT, HOYLE, BARKER, THATCHER; Representatives BARNHART, DOHERTY, GELSER

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.

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

[Increases length of time person must use ignition interlock device upon first conviction of driving while under influence of intoxicants.]

Raises certain fees for deposit in Intoxicated Driver Program Fund to pay for costs related to administration of diversion agreement program.

A BILL FOR AN ACT

1
2 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.030, 813.240,
3 813.600 and 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 **while** under the influence of intoxicants and granted hardship permits under ORS 807.240
9 **and by persons who have entered into a driving while under the influence of intoxicants di-**
10 **version 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;

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

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

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

4 813.602. (1) When a person is convicted of driving while under the influence of intoxicants in
5 violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation, in addition
6 to any other requirement, shall require that an approved ignition interlock device be installed and
7 used in any vehicle operated by the person:

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

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

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

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

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

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

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

41 (6) At the end of the suspension or revocation resulting from the conviction, the department
42 shall suspend the driving privileges or right to apply for driving privileges of a person who has not
43 submitted proof to the department that an ignition interlock device has been installed or who
44 tampers with an ignition interlock device after it has been installed. If the suspension is for failing
45 to submit proof of installation, the suspension continues until the department receives proof that the

1 ignition interlock device has been installed or until one year after the ending date of the suspension
2 resulting from the first conviction or two years after the ending date of the suspension resulting
3 from a second or subsequent conviction, whichever comes first. If the suspension is for tampering
4 with an ignition interlock device, the suspension continues until one year after the ending date of
5 the suspension resulting from the first conviction or two years after the ending date of the suspen-
6 sion resulting from a second or subsequent conviction. A person whose driving privileges or right
7 to apply for privileges is suspended under this subsection is entitled to administrative review, as
8 described in ORS 809.440, of the action.

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

11 **(8) When a person is required to install an ignition interlock device under subsection (2)**
12 **of this section, the provider of the device shall provide notice of any installation or removal**
13 **of the device or any tampering with the device to the court that ordered installation of the**
14 **device or to the court's designee, including but not limited to an agency or organization**
15 **certified by the Oregon Health Authority under ORS 813.025.**

16 **SECTION 3.** ORS 813.030 is amended to read:

17 813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of [~~\$130~~] **\$155**,
18 except that the court may waive all or part of the fee in cases involving indigent defendants. The
19 court may make provision for payment of the fee on an installment basis. The fee shall be ordered
20 paid as follows:

21 (1) \$105 to be credited and distributed under ORS 137.295 as an obligation payable to the state;
22 and

23 (2) [~~\$25~~] **\$50** to be paid to the Director of the Oregon Health Authority for deposit in the
24 Intoxicated Driver Program Fund created by ORS 813.270.

25 **SECTION 4.** ORS 813.240 is amended to read:

26 813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while
27 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be [~~\$261~~]
28 **\$286** and shall be ordered paid as follows if the petition is allowed:

29 (a) \$136 to be credited and distributed under ORS 137.295 as an obligation payable to the state;

30 (b) \$100 to be treated as provided for disposition of fines and costs under ORS 153.630; and

31 (c) [~~\$25~~] **\$50** to be paid to the Director of the Oregon Health Authority for deposit in the
32 Intoxicated Driver Program Fund created under ORS 813.270, to be used for purposes of the fund.

33 (2) In addition to the filing fee under subsection (1) of this section, the court shall order the
34 defendant to pay \$150 directly to the agency or organization providing the diagnostic assessment.

35 **SECTION 5. The amendments to ORS 813.030, 813.240 and 813.602 by sections 2 to 4 of this**
36 **2011 Act apply to offenses that occur on or after the effective date of this 2011 Act.**

37