

A-Engrossed
Senate Bill 395

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

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.

Modifies obligation of Oregon Criminal Justice Commission to classify driving while under the influence of intoxicants as crime category 6.

Directs Department of Corrections to award grants to counties as reimbursement for costs associated with incarcerating certain offenders convicted of driving while under influence of intoxicants. Establishes limit on rate of reimbursement.

Appropriates moneys from General Fund to department for purpose of awarding grants.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS
3 813.012 and section 3, chapter 1, Oregon Laws 2011; appropriating money; declaring an emer-
4 gency; and providing for criminal sentence reduction that requires approval by a two-thirds
5 majority.

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

7 **SECTION 1.** ORS 813.012 is amended to read:

8 813.012. (1) The Oregon Criminal Justice Commission shall classify [*a violation of ORS 813.010*
9 *that is a felony*] **felony driving while under the influence of intoxicants that is committed un-**
10 **der the circumstances described in ORS 813.010 (5)** as crime category 6 of the rules of the
11 Oregon Criminal Justice Commission.

12 (2) In determining criminal history for a person convicted of a felony that has operation of a
13 motor vehicle as an element, or of a felony that involved death, injury or property damage caused
14 by the use of a motor vehicle, the commission shall:

15 (a) Consider two prior convictions of misdemeanor driving while under the influence of
16 intoxicants to be equivalent to one conviction of felony driving while under the influence of
17 intoxicants; and

18 (b) Consider felony driving while under the influence of intoxicants to be a person felony and
19 consider misdemeanor driving while under the influence of intoxicants to be a person Class A
20 misdemeanor.

21 **SECTION 2.** Section 3, chapter 1, Oregon Laws 2011, is amended to read:

22 **Sec. 3.** [*a.*] (1) Driving under the influence of intoxicants **under** [(ORS 813.010)] shall be a
23 Class C felony if the defendant has been convicted of driving under the influence of intoxicants in
24 violation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in

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 the 10 years prior to the date of the current offense.

2 [b.] (2) Once a person has been sentenced for a Class C felony under this section, the 10-year
3 time limitation is eliminated and any subsequent episode of driving under the influence of
4 intoxicants shall be a Class C felony regardless of the amount of time which intervenes.

5 [c.] (3) Upon conviction for a Class C felony under this section, the person shall be sentenced
6 to a mandatory minimum term of incarceration of 90 days, without reduction for any reason.

7 [d. *The state shall fully reimburse any county for the county's costs of incarceration, including any*
8 *pretrial incarceration, for a person sentenced under this section.*]

9 **SECTION 3.** (1) **The Department of Corrections shall award grants to counties for the**
10 **purpose of reimbursing counties for the cost of incarcerating persons sentenced under sec-**
11 **tion 3, chapter 1, Oregon Laws 2011. The grants shall be made from moneys appropriated to**
12 **the department for that purpose.**

13 (2) **The department shall adopt rules describing the manner in which a county may apply**
14 **for grants described in subsection (1) of this section and establishing the rate at which the**
15 **county will be reimbursed. The rate of reimbursement may not exceed the calculated rate**
16 **at which the department provides moneys to counties under ORS 423.530 for persons sen-**
17 **tenced to 12 months or less incarceration.**

18 **SECTION 4.** **There is appropriated to the Department of Corrections, for the biennium**
19 **beginning July 1, 2011, out of the General Fund, the amount of \$_____ for the purpose of**
20 **awarding grants described in section 3 of this 2011 Act.**

21 **SECTION 5.** **This 2011 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
23 **on its passage.**