

**B-Engrossed**  
**Senate Bill 395**

Ordered by the Senate June 17  
Including Senate Amendments dated April 27 and June 17

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.]*

**Directs Department of Corrections to reimburse counties for costs of incarcerating persons sentenced under Ballot Measure 73 (2010) for committing multiple violations of driving while under the influence of intoxicants.**

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; declaring an emergency; and providing for  
4 criminal sentence reduction that requires approval by a two-thirds majority.

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

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

7 813.012. (1) The Oregon Criminal Justice Commission shall classify [*a violation of ORS 813.010*  
8 *that is a felony*] **felony driving while under the influence of intoxicants that is committed un-**  
9 **der the circumstances described in ORS 813.010 (5)** as crime category 6 of the rules of the  
10 Oregon Criminal Justice Commission.

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

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

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

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

21 **Sec. 3.** [*a.*] (1) Driving under the influence of intoxicants **under** [(ORS 813.010)] shall be a  
22 Class C felony if the defendant has been convicted of driving under the influence of intoxicants 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 violation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in  
2 the 10 years prior to the date of the current offense.

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

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

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

10 **SECTION 3. (1) The Legislative Assembly finds and declares that:**

11 **(a) In November of 2010, the voters enacted section 3, chapter 1, Oregon Laws 2011, which**  
12 **directed the state to fully reimburse counties for the costs of incarcerating persons sen-**  
13 **tenced under section 3, chapter 1, Oregon Laws 2011, including the costs of pretrial**  
14 **incarceration.**

15 **(b) Different counties incur different costs of incarceration and many counties incur**  
16 **different costs for different inmates within the same facility.**

17 **(c) The Legislative Assembly intends to honor the direction given by the voters while also**  
18 **creating an efficient and effective means by which to do so.**

19 **(d) Counties and the Department of Corrections have previously agreed that the calcu-**  
20 **lated rate at which the department provides moneys to counties under ORS 423.530 for per-**  
21 **sons sentenced to 12 months or less incarceration is an efficient and effective means by**  
22 **which to reimburse counties for the costs of their incarceration.**

23 **(2) The department shall reimburse counties for the costs of incarcerating persons sen-**  
24 **tenced under section 3, chapter 1, Oregon Laws 2011, including the costs of pretrial**  
25 **incarceration.**

26 **(3) The department shall adopt rules prescribing the manner in which a county may**  
27 **submit a claim for reimbursement under this section. The reimbursement shall be calculated**  
28 **using the rate at which the department provides moneys to counties under ORS 423.530 for**  
29 **persons sentenced to 12 months or less incarceration.**

30 **(4) Reimbursements made to counties under this section must be made from moneys**  
31 **appropriated to the department for that purpose.**

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

35