

B-Engrossed
Senate Bill 406

Ordered by the House June 7
Including Senate Amendments dated May 3 and House Amendments dated
June 7

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 period of time after which, and jurisdiction wherein, person may petition for restoration of driving privileges when privileges are revoked following certain criminal conduct. Requires [*proof*] **evidence** of completion of alcohol or drug treatment program for [*such*] restoration **if sentence required completion of such program.**

A BILL FOR AN ACT

1
2 Relating to driving privileges; creating new provisions; and amending ORS 809.235.

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

4 **SECTION 1.** ORS 809.235 is amended to read:

5 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
6 privileges be permanently revoked if the person is convicted of any degree of murder and the court
7 finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the
8 death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in
9 the first or second degree resulting from the operation of a motor vehicle, criminally negligent
10 homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from
11 the operation of a motor vehicle.

12 (b) The court shall order that a person's driving privileges be permanently revoked if the person
13 is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010
14 or if the person is convicted for a third or subsequent time of any of the following offenses in any
15 combination:

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

17 (i) ORS 813.010; or

18 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

19 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
20 impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an
21 inhalant or any combination thereof.

22 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
23 blood alcohol content above that jurisdiction's permissible blood alcohol content.

24 (c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in
25 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content

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 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
2 of age or older does not constitute a prior conviction.

3 (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this sec-
4 tion may file a petition in the circuit court of the county in which the *[person resides]* **person's**
5 **driving privileges were revoked** for an order restoring the person's driving privileges. A petition
6 may be filed under this subsection no sooner than 10 years after the person is:

7 (A) Released on parole or post-prison supervision for the crime for which the person's driving
8 privileges were revoked and any other crimes arising out of the same criminal episode; *[or]*

9 (B) Sentenced to probation *[if the probation is not revoked and the person is thereafter discharged*
10 *without the imposition of a sentence of imprisonment.]* **for the crime for which the person's driving**
11 **privileges were revoked, unless the probation is revoked, in which case the petition may be**
12 **filed no sooner than 10 years after the date probation is revoked; or**

13 (C) **Sentenced for the crime for which the person's driving privileges were revoked, if no**
14 **other provision of this paragraph applies.**

15 (b) **Notwithstanding paragraph (a) of this subsection, if during the revocation period for**
16 **the crime for which the person was convicted the person is convicted of a criminal offense**
17 **involving a motor vehicle, the person may file a petition to restore driving privileges as de-**
18 **scribed in paragraph (a) of this subsection no sooner than 10 years from the date of the most**
19 **recent conviction involving a motor vehicle.**

20 *[(b)]* (c) The district attorney of the county in which the *[person resides]* **person's driving**
21 **privileges were revoked** shall be named and served as the respondent in the petition.

22 (3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this
23 section. In determining whether to grant the petition, the court shall consider:

24 (a) The nature of the offense for which driving privileges were revoked.

25 (b) The degree of violence involved in the offense.

26 (c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
27 conviction that resulted in the revocation.

28 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
29 chological evaluation ordered by the court to determine whether the person is presently a threat to
30 the safety of the public.

31 (e) Any other relevant factors.

32 *[(4) If, after a hearing described in subsection (3) of this section, the court is satisfied by clear and*
33 *convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to*
34 *the safety of the public, the court shall order the petitioner's driving privileges restored.]*

35 (4) **The court shall order a petitioner's driving privileges restored if, after a hearing de-**
36 **scribed in subsection (3) of this section, the court finds by clear and convincing evidence that**
37 **the petitioner:**

38 (a) **Is rehabilitated;**

39 (b) **Does not pose a threat to the safety of the public; and**

40 (c) **If the sentence for the crime for which the petitioner's driving privileges were re-**
41 **voked required the petitioner to complete an alcohol or drug treatment program, has com-**
42 **pleted an alcohol or drug treatment program in a facility approved by the Director of the**
43 **Oregon Health Authority or a similar program in another jurisdiction.**

44 **SECTION 2. The amendments to ORS 809.235 by section 1 of this 2011 Act apply to pe-**
45 **titions filed on or after the effective date of this 2011 Act.**

