

Senate Bill 415

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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**.

Increases penalty for offense of violation driving while suspended or revoked if commission of offense contributed to serious physical injury or death of vulnerable user of public way.

Requires person committing offense to complete traffic safety course and perform 100 to 200 hours of community service related to driver improvement. Directs court to impose, but suspend on condition that person complete safety course and community service requirements, fine of up to \$12,500, and set hearing date up to one year from date of sentencing to determine person's compliance with requirements.

Requires police officer issuing citation for offense of driving while suspended or revoked to note on citation if cited offense contributed to serious physical injury or death of vulnerable user of public way.

Requires defendant who has been issued citation to make first appearance by personally appearing in court at time indicated in summons.

A BILL FOR AN ACT

1
2 Relating to traffic violations; creating new provisions; and amending ORS 153.061 and 811.175.

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

4 **SECTION 1.** ORS 811.175 is amended to read:

5 811.175. (1) A person commits the offense of violation driving while suspended or revoked if the
6 person does any of the following:

7 (a) Drives a motor vehicle upon a highway during a period when the person's driving privileges
8 or right to apply for driving privileges have been suspended or revoked in this state by a court or
9 by the Department of Transportation.

10 (b) Drives a motor vehicle outside the limitations of a probationary permit issued under ORS
11 807.270 or a hardship driver permit issued under ORS 807.240, including any limitations placed on
12 the permit under ORS 813.510.

13 (c) Drives a commercial motor vehicle upon a highway during a period when the person's driving
14 privileges or commercial driving privileges have been suspended or revoked in this state or any
15 other jurisdiction.

16 (2) Affirmative defenses to the offense described in this section are established under ORS
17 811.180.

18 (3) The offense described in this section is applicable upon any premises open to the public.

19 (4) The offense described in this section, violation driving while suspended or revoked, is a Class
20 A traffic violation except as otherwise provided in ORS 811.182.

21 **(5) In addition to any other penalty imposed for an offense committed under this section,**
22 **if the court determines that the commission of the offense described in this section con-**
23 **tributed to the serious physical injury or death of a vulnerable user of a public way, the**
24 **court shall:**

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 (a) **Impose a sentence that requires the person to:**

2 (A) **Complete a traffic safety course; and**

3 (B) **Notwithstanding ORS 137.129, perform between 100 and 200 hours of community ser-**
 4 **vice, which must include activities related to driver improvement and providing public edu-**
 5 **cation on traffic safety;**

6 (b) **Notwithstanding ORS 153.018, impose, but suspend on the condition that the person**
 7 **complete the requirements of paragraph (a) of this subsection, a fine of up to \$12,500; and**

8 (c) **Set a hearing date up to one year from the date of sentencing.**

9 (6) **At the hearing described in subsection (5)(c) of this section, the court shall:**

10 (a) **If the person has successfully completed the requirements described in subsection**
 11 **(5)(a) of this section, dismiss the penalty imposed under subsection (5)(b) of this section; or**

12 (b) **If the person has not successfully completed the requirements described in subsection**
 13 **(5)(a) of this section:**

14 (A) **Grant the person an extension based on good cause shown; or**

15 (B) **Impose the penalty under subsection (5)(b) of this section.**

16 (7) **The police officer issuing the citation for an offense under this section shall note on**
 17 **the citation if the cited offense contributed to the serious physical injury or death of a vul-**
 18 **nerable user of a public way.**

19 **SECTION 2.** ORS 153.061 is amended to read:

20 153.061. (1) Except as provided in subsection (2) of this section, a defendant who has been issued
 21 a violation citation must either:

22 (a) Make a first appearance by personally appearing in court at the time indicated in the sum-
 23 mons; or

24 (b) Make a first appearance in the manner provided in subsection (3) of this section before the
 25 time indicated in the summons.

26 (2) If a defendant has been issued a violation citation for careless driving under ORS 811.135
 27 **or driving while suspended or revoked under ORS 811.175** on which a police officer noted that
 28 a vulnerable user of a public way suffered serious physical injury or death, the defendant must make
 29 a first appearance by personally appearing in court at the time indicated in the summons.

30 (3) A defendant who has been issued a violation citation may make a first appearance in the
 31 matter before the time indicated in the summons by one of the following means:

32 (a) The defendant may submit to the court a written or oral request for a trial.

33 (b) The defendant may enter a plea of no contest by delivering to the court the summons, a
 34 check or money order in the amount of the base fine set forth in the summons, and a statement of
 35 matters in explanation or mitigation of the violation charged. The delivery of a statement of matters
 36 in explanation or mitigation under the provisions of this paragraph constitutes a waiver of trial and
 37 consent to the entry of a judgment forfeiting the base fine based on the statement and any other
 38 testimony or written statements that may be presented to the court by the citing officer or other
 39 witnesses.

40 (c) The defendant may execute the appearance, waiver of trial and plea of guilty that appears
 41 on the summons and deliver the summons and a check or money order in the amount of the base fine
 42 set forth in the summons to the court. The defendant may attach a statement of matters in expla-
 43 nation or mitigation of the violation.

44 (4) The court may require that a defendant requesting a trial under subsection (3)(a) of this
 45 section deposit the base fine specified under ORS 153.125 to 153.145 or such other amount as the

1 court determines appropriate if the defendant has failed to appear in any court on one or more other
2 charges in the past. If the defendant does not deposit the amount specified by the court, the de-
3 fendant must personally appear in court at the time indicated in the summons. The amount deposited
4 by the defendant may be applied against any fine imposed by the court, and any amount not so ap-
5 plied shall be refunded to the defendant at the conclusion of the proceedings.

6 (5) If the defendant personally appears in court at the time indicated in the summons and enters
7 a plea of guilty, the judge shall consider any statement in explanation or mitigation made by the
8 defendant.

9 (6) The court may require a defendant to appear personally in any case, or may require that all
10 defendants appear in specified categories of cases.

11 (7) If a defendant has entered a no contest plea or guilty plea in the manner provided in sub-
12 section (3)(b) or (c) of this section, and the court determines that the base fine amount is not ade-
13 quate by reason of previous convictions of the defendant, the nature of the offense charged or other
14 circumstances, the court may require that a trial be held unless an additional fine amount is paid
15 by the defendant before a specified date. Notice of an additional fine amount under this subsection
16 may be given to the defendant by mail. In no event may the court require a total fine amount in
17 excess of the maximum fine established for the violation by statute.

18 (8) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined
19 by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails
20 to appear at any other subsequent time set for trial or other appearance, the driving privileges of
21 the defendant are subject to suspension under ORS 809.220.

22 **SECTION 3. The amendments to ORS 153.061 and 811.175 by sections 1 and 2 of this 2011**
23 **Act apply to offenses that occur on or after the effective date of this 2011 Act.**

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