

## SENATE AMENDMENTS TO SENATE BILL 415

By COMMITTEE ON JUDICIARY

May 2

- 1 On page 1 of the printed bill, line 2, delete “811.175” and insert “811.135”.
- 2 Delete lines 4 through 24 and delete pages 2 and 3 and insert:
- 3 “**SECTION 1.** ORS 811.135 is amended to read:
- 4 “811.135. (1) A person commits the offense of careless driving if the person drives any vehicle
- 5 upon a highway or other premises described in this section in a manner that endangers or would
- 6 be likely to endanger any person or property.
- 7 “(2) The offense described in this section, careless driving, applies on any premises open to the
- 8 public and is a Class B traffic violation unless commission of the offense contributes to an accident.
- 9 If commission of the offense contributes to an accident, the offense is a Class A traffic violation.
- 10 “(3) In addition to any other penalty imposed for an offense committed under this section, if the
- 11 court determines that the commission of the offense described in this section contributed to the se-
- 12 rious physical injury or death of a vulnerable user of a public way, the court shall:
- 13 “(a) Impose a sentence that requires the person to:
- 14 “(A) Complete a traffic safety course; and
- 15 “(B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129.
- 16 The community service must include activities related to driver improvement and providing public
- 17 education on traffic safety;
- 18 “(b) Impose, but suspend on the condition that the person complete the requirements of para-
- 19 graph (a) of this subsection:
- 20 “(A) A fine of up to \$12,500, notwithstanding ORS 153.018; and
- 21 “(B) A suspension of driving privileges as provided in ORS 809.280; and
- 22 “(c) Set a hearing date up to one year from the date of sentencing.
- 23 “(4) At the hearing described in subsection (3)(c) of this section, the court shall:
- 24 “(a) If the person has successfully completed the requirements described in subsection (3)(a) of
- 25 this section, dismiss the penalties imposed under subsection (3)(b) of this section; or
- 26 “(b) If the person has not successfully completed the requirements described in subsection (3)(a)
- 27 of this section:
- 28 “(A) Grant the person an extension based on good cause shown; or
- 29 “(B) Impose the penalties under subsection (3)(b) of this section.
- 30 “(5) When a court imposes a suspension under subsection (4) of this section, the court shall
- 31 prepare and send to the Department of Transportation an order of suspension of driving privileges
- 32 of the person. Upon receipt of an order under this subsection, the department shall take action as
- 33 directed under ORS 809.280.
- 34 “(6) The police officer issuing the citation for an offense under this section shall note on the
- 35 citation if the cited offense **appears to have** contributed to the serious physical injury or death of

1 a vulnerable user of a public way.

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

3 “153.061. (1) Except as provided in subsection (2) of this section, a defendant who has been is-  
4 sued a violation citation must either:

5 “(a) Make a first appearance by personally appearing in court at the time indicated in the  
6 summons; or

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

9 “(2) If a defendant has been issued a violation citation for careless driving under ORS 811.135  
10 on which a police officer noted that [*a vulnerable user of a public way suffered serious physical injury*  
11 *or death*] **the cited offense appears to have contributed to the serious physical injury or death**  
12 **of a vulnerable user of a public way**, the defendant must make a first appearance by personally  
13 appearing in court at the time indicated in the summons.

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

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

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

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

28 “(4) The court may require that a defendant requesting a trial under subsection (3)(a) of this  
29 section deposit the base fine specified under ORS 153.125 to 153.145 or such other amount as the  
30 court determines appropriate if the defendant has failed to appear in any court on one or more other  
31 charges in the past. If the defendant does not deposit the amount specified by the court, the de-  
32 fendant must personally appear in court at the time indicated in the summons. The amount deposited  
33 by the defendant may be applied against any fine imposed by the court, and any amount not so ap-  
34 plied shall be refunded to the defendant at the conclusion of the proceedings.

35 “(5) If the defendant personally appears in court at the time indicated in the summons and en-  
36 ters a plea of guilty, the judge shall consider any statement in explanation or mitigation made by  
37 the defendant.

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

40 “(7) If a defendant has entered a no contest plea or guilty plea in the manner provided in sub-  
41 section (3)(b) or (c) of this section, and the court determines that the base fine amount is not ade-  
42 quate by reason of previous convictions of the defendant, the nature of the offense charged or other  
43 circumstances, the court may require that a trial be held unless an additional fine amount is paid  
44 by the defendant before a specified date. Notice of an additional fine amount under this subsection  
45 may be given to the defendant by mail. In no event may the court require a total fine amount in

1 excess of the maximum fine established for the violation by statute.

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

6 **“SECTION 3. The amendments to ORS 153.061 and 811.135 by sections 1 and 2 of this 2011  
7 Act apply to offenses that occur on or after the effective date of this 2011 Act.”.**

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