

# House Bill 4017

Sponsored by Representatives G SMITH, HUNT; Representatives BARKER, ESQUIVEL, HICKS, THATCHER, WHISNANT, Senators HASS, MONROE, VERGER (at the request of Mothers Against Drunk Driving (MADD))(Presession filed.)

## 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**.

Requires certain persons to install ignition interlock device for five years after person's driving privileges are restored following suspension or revocation of driving privileges.

## A BILL FOR AN ACT

1  
2 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.602.

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

4 **SECTION 1.** ORS 813.602 is amended to read:

5 813.602. (1) **Except as provided in subsection (2) of this section**, when a person is convicted  
6 of driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal  
7 ordinance, the Department of Transportation, in addition to any other requirement, shall require  
8 that **the person install and use** an approved ignition interlock device [*be installed and used*] in any  
9 vehicle operated by the person:

10 (a) Before the person is eligible for a hardship permit. The requirement is a condition of the  
11 hardship permit for the duration of the hardship permit.

12 (b) For a first conviction, for one year after the ending date of the suspension or revocation  
13 caused by the conviction. Violation of the condition imposed under this paragraph is a Class A  
14 traffic violation.

15 (c) For a second or subsequent conviction, for two years after the ending date of the suspension  
16 or revocation caused by the conviction. Violation of the condition imposed under this paragraph is  
17 a Class A traffic violation.

18 **(2) When a person is convicted of a crime or multiple crimes as described in this sub-**  
19 **section, the department, in addition to any other requirement, shall require that the person**  
20 **install and use an approved ignition interlock device in any vehicle operated by the person**  
21 **for five years after the ending date of the longest running suspension or revocation caused**  
22 **by any of the convictions. Violation of the condition imposed under this subsection is a Class**  
23 **A traffic violation. A person is subject to this subsection when the person is convicted of:**

24 (a) **Driving while under the influence of intoxicants in violation of ORS 813.010 or of a**  
25 **municipal ordinance and any of the following crimes as part of the same criminal episode:**

26 (A) **Any degree of murder.**

27 (B) **Manslaughter in the first or second degree.**

28 (C) **Criminally negligent homicide.**

29 (D) **Assault in the first degree.**

30 (b) **Aggravated vehicular homicide.**

**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       (c) **Driving while under the influence of intoxicants in violation of ORS 813.010 or of a**  
 2 **municipal ordinance and the person's driving privileges are revoked under ORS 809.235 (1)(b)**  
 3 **and later ordered restored under ORS 809.235 (4).**

4       [(2)] (3) The court shall require as a condition of a driving while under the influence of  
 5 intoxicants diversion agreement that an approved ignition interlock device be installed in any ve-  
 6 hicle operated by the person during the period of the agreement when the person has driving priv-  
 7 ileges. In addition to any action taken under ORS 813.255, violation of the condition imposed under  
 8 this subsection is a Class A traffic violation.

9       [(3)] (4) Except as provided in subsection [(4)] (5) of this section, if an ignition interlock system  
 10 is ordered or required under subsection (1), [or] (2) **or (3)** of this section, the person so ordered or  
 11 required shall pay to the provider the reasonable costs of leasing, installing and maintaining the  
 12 device. A payment schedule may be established for the person by the department.

13       [(4)] (5) The department may waive, in whole or in part, or defer the defendant's responsibility  
 14 to pay all or part of the costs under subsection [(3)] (4) of this section if the defendant meets the  
 15 criteria for indigence established for waiving or deferring such costs under subsection [(5)] (6)  
 16 of this section. If the defendant's responsibility for costs is waived, then notwithstanding ORS 813.270,  
 17 the costs described in subsection [(3)] (4) of this section must be paid from the Intoxicated Driver  
 18 Program Fund.

19       [(5)] (6) The department, by rule, shall establish criteria and procedures it will use for quali-  
 20 fication to waive or defer costs described under subsection [(3)] (4) of this section for indigence. The  
 21 criteria must be consistent with the standards for indigence adopted by the federal government for  
 22 purposes of the Supplemental Nutrition Assistance Program.

23       [(6)] (7) At the end of the suspension or revocation resulting from the conviction, the department  
 24 shall suspend the driving privileges or right to apply for driving privileges of a person who has not  
 25 submitted proof to the department that an ignition interlock device has been installed or who  
 26 tampers with an ignition interlock device after it has been installed.

27       (8) If the **department imposes a suspension under subsection (7) of this section** [is] for  
 28 failing to submit proof of installation, the suspension continues until the department receives proof  
 29 that the ignition interlock device has been installed [or until]. **If the department does not receive**  
 30 **proof that the ignition interlock device has been installed, the suspension shall continue for:**

31       (a) One year after the ending date of the suspension resulting from the first conviction; [or]

32       (b) **Except as provided in paragraph (c) of this subsection**, two years after the ending date  
 33 of the suspension resulting from a second or subsequent conviction[, *whichever comes first.*]; **or**

34       (c) **Five years after the ending date of the longest running suspension or revocation re-**  
 35 **sulting from a conviction described in subsection (2) of this section.**

36       (9) If the **department imposes a suspension under subsection (7) of this section** [is] for  
 37 tampering with an ignition interlock device, the suspension continues until:

38       (a) One year after the ending date of the suspension resulting from the first conviction; [or]

39       (b) **Except as provided in paragraph (c) of this subsection**, two years after the ending date  
 40 of the suspension resulting from a second or subsequent conviction[.]; **or**

41       (c) **Five years after the ending date of the longest running suspension or revocation re-**  
 42 **sulting from a conviction described in subsection (2) of this section.**

43       (10) A person whose driving privileges or right to apply for privileges is suspended under  
 44 [this] subsection (7) of this section is entitled to administrative review, as described in ORS  
 45 809.440, of the action.

1        [(7)] (11) The department shall adopt rules permitting medical exemptions from the requirements  
2 of installation and use of an ignition interlock device under [subsection (1)] **subsections (1) and (2)**  
3 of this section.

4        [(8)] (12) When a person is required to install an ignition interlock device under subsection (2)  
5 **or (3)** of this section, the provider of the device shall provide notice of any installation or removal  
6 of the device or any tampering with the device to the court that ordered installation of the device  
7 or to the court's designee, including but not limited to an agency or organization certified by the  
8 Oregon Health Authority under ORS 813.025.

9        **SECTION 2. The amendments to ORS 813.602 by section 1 of this 2012 Act apply to crimes**  
10 **committed on or after the effective date of this 2012 Act.**

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