

# D R A F T

## SUMMARY

Permits person to enter into driving while under influence of intoxicants diversion agreement even if person has already entered treatment following charge of minor in possession of alcoholic beverage or charge of possession of less than one ounce of marijuana.

### A BILL FOR AN ACT

Relating to driving while under the influence of intoxicants diversion agreements; creating new provisions; and amending ORS 813.215.

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

**SECTION 1.** ORS 813.215 is amended to read:

813.215. (1) A defendant is eligible for diversion if the defendant meets all of the following conditions:

(a) On the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement, the defendant had no charge, other than the charge for the present offense, pending for:

(A) An offense of driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

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

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

(C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's per-

1 missible blood alcohol content.

2 (b) The defendant has not been convicted of an offense described in par-  
3 agraph (a) of this subsection within the period beginning 15 years before the  
4 date of the commission of the present offense and ending on the date the  
5 defendant filed the petition for a driving while under the influence of  
6 intoxicants diversion agreement.

7 (c) The defendant has not been convicted of a felony offense described in  
8 ORS 813.010 (5)(a).

9 (d) The defendant was not participating in a driving while under the in-  
10 fluence of intoxicants diversion program or in any similar alcohol or drug  
11 rehabilitation program[, *other than a program entered into as a result of the*  
12 *charge for the present offense,*] in this state or in another jurisdiction on the  
13 date the defendant filed the petition for a driving while under the influence  
14 of intoxicants diversion agreement. **A defendant is not ineligible for di-**  
15 **version under this paragraph by reason of participation in a diversion**  
16 **program or any similar alcohol or drug rehabilitation program as a**  
17 **result of the charge for the present offense, a charge for violation of**  
18 **ORS 471.430 or a charge for violation of ORS 475.864 (3).**

19 (e) The defendant did not participate in a diversion or rehabilitation  
20 program described in paragraph (d) of this subsection[, *other than a program*  
21 *entered into as a result of the charge for the present offense,*] within the period  
22 beginning 15 years before the date of the commission of the present offense  
23 and ending on the date the defendant filed the petition for a driving while  
24 under the influence of intoxicants diversion agreement. **A defendant is not**  
25 **ineligible for diversion under this paragraph by reason of participation**  
26 **in a diversion program or rehabilitation program described in para-**  
27 **graph (d) of this subsection as a result of the charge for the present**  
28 **offense, a charge for violation of ORS 471.430 or a charge for violation**  
29 **of ORS 475.864 (3).**

30 (f) The defendant had no charge of an offense of aggravated vehicular  
31 homicide or of murder, manslaughter, criminally negligent homicide or as-

1 sault that resulted from the operation of a motor vehicle pending in this  
2 state or in another jurisdiction on the date the defendant filed the petition  
3 for a driving while under the influence of intoxicants diversion agreement.

4 (g) The defendant has not been convicted of an offense described in par-  
5 agraph (f) of this subsection within the period beginning 15 years before the  
6 date of the commission of the present offense and ending on the date the  
7 defendant filed the petition for a driving while under the influence of  
8 intoxicants diversion agreement.

9 (h) The defendant did not hold a commercial driver license on the date  
10 of the commission of the offense.

11 (i) The defendant was not operating a commercial motor vehicle at the  
12 time of the offense.

13 (j) The present driving while under the influence of intoxicants offense  
14 did not involve an accident resulting in:

15 (A) Death of any person; or

16 (B) Physical injury as defined in ORS 161.015 to any person other than  
17 the defendant.

18 (2) For the purposes of subsection (1)(a) of this section, a conviction for  
19 a driving offense in another jurisdiction based solely on a person under 21  
20 years of age having a blood alcohol content that is lower than the permis-  
21 sible blood alcohol content in that jurisdiction for a person 21 years of age  
22 or older does not constitute a prior conviction.

23 (3) A defendant is eligible for a second or subsequent diversion if the  
24 defendant meets all of the conditions of subsection (1) of this section and the  
25 defendant has not been convicted of any other criminal offense involving a  
26 motor vehicle within the period beginning 15 years before the date of the  
27 commission of the present offense and ending on the date the defendant filed  
28 the petition for the second or subsequent driving while under the influence  
29 of intoxicants diversion agreement.

30 **SECTION 2. The amendments to ORS 813.215 by section 1 of this**  
31 **2013 Act apply to petitions for a driving while under the influence of**

1 **intoxicants diversion agreement filed on or after the effective date of**  
2 **this 2013 Act.**

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