

# D R A F T

## SUMMARY

Modifies sentence that court is required to impose when certain persons are convicted of felony driving under the influence of intoxicants. Authorizes court to order person to wear continuous alcohol monitoring device in lieu of mandatory minimum sentence of 90 days' incarceration, if person is participating in treatment court.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to driving under the influence of intoxicants; creating new provisions; amending ORS 813.011; declaring an emergency; and providing for criminal sentence reduction that requires approval by a two-thirds majority.

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

#### **SECTION 1.** ORS 813.011 is amended to read:

813.011. (1) Driving under the influence of intoxicants under ORS 813.010 [*shall be*] **is** a Class C felony if the defendant has been convicted of driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in the 10 years prior to the date of the current offense.

(2) Once a person has been sentenced for a Class C felony under this section, the 10-year time limitation is eliminated and any subsequent episode of driving under the influence of intoxicants [*shall be*] **is** a Class C felony [*regardless of the amount of time which intervenes*].

(3)(a) [*Upon conviction for*] **Except as otherwise provided in paragraph (b) of this subsection, when a person is convicted of a Class C felony**

1 under this section, the [*person shall be sentenced*] **court shall sentence the**  
2 **person** to a mandatory minimum term of incarceration of 90 days, without  
3 reduction for any reason.

4 **(b) When a person convicted of a Class C felony under this section**  
5 **is participating in a drug court program as defined in ORS 3.450, in**  
6 **lieu of imposing the term of incarceration described in paragraph (a)**  
7 **of this subsection, the court may order that the person wear a con-**  
8 **tinuous alcohol monitoring device for a period of at least 90 days.**

9 **(4) As used in this section, “continuous alcohol monitoring device”**  
10 **means a device that:**

11 **(a) Automatically tests a person’s breath, blood or transdermal al-**  
12 **cohol concentration levels at least once per hour;**

13 **(b) Detects attempts to tamper with the device; and**

14 **(c) Regularly transmits data documenting the tests and any at-**  
15 **tempts to tamper with the device to a secure location.**

16 **SECTION 2. The amendments to ORS 813.011 by section 1 of this**  
17 **2013 Act apply to convictions for conduct occurring on or after the**  
18 **effective date of this 2013 Act.**

19 **SECTION 3. This 2013 Act being necessary for the immediate pres-**  
20 **ervation of the public peace, health and safety, an emergency is de-**  
21 **clared to exist, and this 2013 Act takes effect on its passage.**

22