

D R A F T

SUMMARY

Shortens time person must wait before petitioning court or applying to Department of Transportation to restore revoked driving privileges.

A BILL FOR AN ACT

Relating to driving privileges; creating new provisions; and amending ORS 809.235 and 809.409.

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

SECTION 1. ORS 809.235 is amended to read:

809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in the first or second degree resulting from the operation of a motor vehicle, criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle.

(b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010 or if the person is convicted for a third or subsequent time of any of the following offenses in any combination:

(A) Driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

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

2 (B) A driving under the influence of intoxicants offense in another juris-
3 diction that involved the impaired driving of a vehicle due to the use of
4 intoxicating liquor, a controlled substance, an inhalant or any combination
5 thereof.

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

9 (c) For the purposes of paragraph (b) of this subsection, a conviction for
10 a driving offense in another jurisdiction based solely on a person under 21
11 years of age having a blood alcohol content that is lower than the permis-
12 sible blood alcohol content in that jurisdiction for a person 21 years of age
13 or older does not constitute a prior conviction.

14 (2)(a) A person whose driving privileges are revoked as described in sub-
15 section (1) of this section may file a petition in the circuit court of the
16 county in which the person's driving privileges were revoked for an order
17 restoring the person's driving privileges. A petition may be filed under this
18 subsection no sooner than [10] **five** years after the person is:

19 (A) Released on parole or post-prison supervision for the crime for which
20 the person's driving privileges were revoked and any other crimes arising
21 out of the same criminal episode;

22 (B) Sentenced to probation for the crime for which the person's driving
23 privileges were revoked, unless the probation is revoked, in which case the
24 petition may be filed no sooner than [10] **five** years after the date probation
25 is revoked; or

26 (C) Sentenced for the crime for which the person's driving privileges were
27 revoked, if no other provision of this paragraph applies.

28 (b) Notwithstanding paragraph (a) of this subsection, if during the revo-
29 cation period for the crime for which the person was convicted the person
30 is convicted of a criminal offense involving a motor vehicle, the person may
31 file a petition to restore driving privileges as described in paragraph (a) of

1 this subsection no sooner than [10] **five** years from the date of the most re-
2 cent conviction involving a motor vehicle.

3 (c) The district attorney of the county in which the person's driving
4 privileges were revoked shall be named and served as the respondent in the
5 petition.

6 (3) The court shall hold a hearing on a petition filed in accordance with
7 subsection (2) of this section. In determining whether to grant the petition,
8 the court shall consider:

9 (a) The nature of the offense for which driving privileges were revoked.

10 (b) The degree of violence involved in the offense.

11 (c) Other criminal and relevant noncriminal behavior of the petitioner
12 both before and after the conviction that resulted in the revocation.

13 (d) The recommendation of the person's parole officer, which shall be
14 based in part on a psychological evaluation ordered by the court to deter-
15 mine whether the person is presently a threat to the safety of the public.

16 (e) Any other relevant factors.

17 (4) The court shall order a petitioner's driving privileges restored if, after
18 a hearing described in subsection (3) of this section, the court finds by clear
19 and convincing evidence that the petitioner:

20 (a) Is rehabilitated;

21 (b) Does not pose a threat to the safety of the public; and

22 (c) If the sentence for the crime for which the petitioner's driving privi-
23 leges were revoked required the petitioner to complete an alcohol or drug
24 treatment program, has completed an alcohol or drug treatment program in
25 a facility approved by the Director of the Oregon Health Authority or a
26 similar program in another jurisdiction.

27 (5) Upon receiving a court order to restore a person's driving privileges,
28 the department may reinstate driving privileges in accordance with ORS
29 809.390, except that the department may not reinstate driving privileges of
30 any person whose privileges are revoked under this section until the person
31 complies with future responsibility filings.

1 **SECTION 2.** ORS 809.409 is amended to read:

2 809.409. (1)(a) Upon receipt of a record of conviction of an offense de-
3 scribed in this section, the Department of Transportation shall revoke the
4 driving privileges of the person convicted.

5 (b) A person is entitled to administrative review under ORS 809.440 of a
6 revocation under this section.

7 (c) Except as otherwise provided in subsections (2) and (3) of this section,
8 the revocation shall be for a period of one year from the date of revocation,
9 except that the department may not reinstate driving privileges of any person
10 whose privileges are revoked under this section until the person complies
11 with future responsibility filings.

12 (2) The department shall take action under subsection (1) of this section
13 upon receipt of a record of conviction of aggravated vehicular homicide or
14 aggravated driving while suspended or revoked or any degree of murder,
15 manslaughter or criminally negligent homicide resulting from the operation
16 of a motor vehicle or assault in the first degree resulting from the operation
17 of a motor vehicle, except that the provisions of this subsection do not apply
18 to a person whose driving privileges are ordered revoked under ORS 809.235.
19 A person whose driving privileges are revoked under this subsection may
20 apply for reinstatement of driving privileges:

21 (a) If the sentence for the crime for which the person's driving privileges
22 were revoked, or any other crimes arising from the same criminal episode,
23 includes incarceration, no sooner than [10] **five** years from the date the
24 person is released from incarceration for all crimes arising out of the same
25 criminal episode; or

26 (b) If the sentence for the crime for which the person's driving privileges
27 were revoked and any other crimes arising from the same criminal episode
28 does not include incarceration, no sooner than [10] **five** years from the date
29 the department revoked the privileges under this subsection.

30 (3) The department shall take action under subsection (1) of this section
31 upon receipt of a record of conviction of failure to perform the duties of a

1 driver to injured persons under ORS 811.705. The department shall revoke
2 driving privileges under this subsection for a period of five years if the court
3 indicates on the record of conviction that a person was killed as a result of
4 the accident. The person may apply for reinstatement of privileges five years
5 after the date the person was released from incarceration, if the sentence
6 includes incarceration. If the sentence does not include incarceration, the
7 person may apply for reinstatement five years from the date the revocation
8 was imposed under this subsection.

9 (4) The department shall take action under subsection (1) of this section
10 upon receipt of a record of conviction of perjury or the making of a false
11 affidavit to the department under any law of this state requiring the regis-
12 tration of vehicles or regulating their operation on the highways.

13 (5) The department shall take action under subsection (1) of this section
14 upon receipt of a record of conviction of any felony with a material element
15 involving the operation of a motor vehicle.

16 **SECTION 3. The amendments to ORS 809.235 and 809.409 by sections**
17 **1 and 2 of this 2013 Act apply to revocations of driving privileges that**
18 **occur before, on or after the effective date of this 2013 Act.**

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