

A-Engrossed
House Bill 2115

Ordered by the House April 15
Including House Amendments dated April 15

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care)

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.

Expands offense of driving while under influence of intoxicants to include [*any drug that adversely affects person's physical or mental faculties to noticeable or perceptible degree*] **certain drugs**. Defines "intoxicant." Provides affirmative defense.

Sunset January 2, 2018.

[*Permits conviction of driving while under influence of intoxicants even if accusatory instrument does not plead fact that person was under influence of controlled substance or inhalant.*]

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; and amending
3 ORS 801.272, 807.060, 807.250, 809.235, 809.265, 809.730, 813.010, 813.040, 813.131, 813.140, 813.150,
4 813.215, 813.220, 813.430, 813.500 and 821.250.

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

6 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of the Oregon Vehicle**
7 **Code.**

8 **SECTION 2. "Intoxicant" means:**

- 9 (1) **Intoxicating liquor;**
10 (2) **Controlled substances;**
11 (3) **Inhalants; or**
12 (4) **Any of the following drugs:**
13 (a) **Amitriptyline.**
14 (b) **Cyclobenzaprine.**
15 (c) **Diphenhydramine.**
16 (d) **Dextromethorphan.**
17 (e) **Tramadol.**

18 **SECTION 3. Section 2 of this 2013 Act is repealed on January 2, 2018.**

19 **SECTION 4. ORS 801.272 is amended to read:**

20 801.272. "Field sobriety test" means a physical or mental test, approved by the Department of
21 State Police by rule after consultation with the Department of Public Safety Standards and Training,
22 that enables a police officer or trier of fact to screen for or detect probable impairment from
23 [*intoxicating liquor, a controlled substance, an inhalant or any combination of intoxicating liquor, an*
24 *inhalant and a controlled substance*] **an intoxicant or a combination of intoxicants.**

25 **SECTION 5. ORS 801.272, as amended by section 4 of this 2013 Act, is amended to read:**

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.

1 801.272. "Field sobriety test" means a physical or mental test, approved by the Department of
2 State Police by rule after consultation with the Department of Public Safety Standards and Training,
3 that enables a police officer or trier of fact to screen for or detect probable impairment from [*an*
4 *intoxicant or a combination of intoxicants*] **intoxicating liquor, a controlled substance, an inhalant**
5 **or any combination of intoxicating liquor, an inhalant and a controlled substance.**

6 **SECTION 6. The amendments to ORS 801.272 by section 5 of this 2013 Act become operative on January 2, 2018.**

8 **SECTION 7.** ORS 807.060, as amended by section 4, chapter 9, Oregon Laws 2012, is amended
9 to read:

10 807.060. The Department of Transportation may not grant driving privileges to a person under
11 a license if the person is not eligible under this section. The following are not eligible for a license:

12 (1) A person under 16 years of age.

13 (2)(a) A person under 18 years of age who is not an emancipated minor unless the application
14 of the person is signed by the person's mother, father or legal guardian. A person who signs an ap-
15 plication under this paragraph may have the driving privileges canceled as provided under ORS
16 809.320.

17 (b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

18 (3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible
19 for a commercial driver license.

20 (4) A person that the department determines has a problem condition involving [*alcohol,*
21 *inhalants or controlled substances*] **intoxicants** as described under ORS 813.040.

22 (5) A person the department reasonably believes has a mental or physical condition or impair-
23 ment that affects the person's ability to safely operate a motor vehicle upon the highways.

24 (6) A person the department reasonably believes is unable to understand highway signs that
25 warn, regulate or direct traffic.

26 (7) A person who is required to make future responsibility filings but has not made filings as
27 required.

28 (8) A person who cannot be issued a license under the Driver License Compact under ORS
29 802.540.

30 (9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose
31 driving privileges are currently under suspension or revocation in any other state upon grounds
32 which, if committed in this state, would be grounds for the suspension or revocation of the driving
33 privileges of the person.

34 (10) A person who has been declared a habitual offender under ORS 809.640. A person declared
35 not eligible to be licensed under this subsection may become eligible by having eligibility restored
36 under ORS 809.640.

37 (11) A person whose driving privileges are canceled in this state under ORS 809.310 until the
38 person is eligible under ORS 809.310.

39 (12) A person while the person's driving privileges are revoked in this state.

40 (13) A person during a period when the person's driving privileges are suspended in this state.

41 (14) A person who holds a current out-of-state license or driver permit or a valid Oregon license
42 or driver permit. A person who is not eligible under this subsection may become eligible by sur-
43 rendering the license, driver permit or out-of-state license or driver permit to the department before
44 issuance of the license. Nothing in this subsection authorizes a person to continue to operate a
45 motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS

1 807.062 to obtain an Oregon license or permit.

2 (15) A person who has not complied with the requirements and responsibilities created by cita-
3 tion for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530
4 authorizes the department to withhold issuance of a license.

5 (16) A person who has not complied with the requirements of section 2, chapter 9, Oregon Laws
6 2012.

7 **SECTION 8.** ORS 807.060, as amended by section 4, chapter 9, Oregon Laws 2012, and section
8 7 of this 2013 Act, is amended to read:

9 807.060. The Department of Transportation may not grant driving privileges to a person under
10 a license if the person is not eligible under this section. The following are not eligible for a license:

11 (1) A person under 16 years of age.

12 (2)(a) A person under 18 years of age who is not an emancipated minor unless the application
13 of the person is signed by the person's mother, father or legal guardian. A person who signs an ap-
14 plication under this paragraph may have the driving privileges canceled as provided under ORS
15 809.320.

16 (b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

17 (3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible
18 for a commercial driver license.

19 (4) A person that the department determines has a problem condition involving [*intoxicants*] **al-**
20 **cohol, inhalants or controlled substances** as described under ORS 813.040.

21 (5) A person the department reasonably believes has a mental or physical condition or impair-
22 ment that affects the person's ability to safely operate a motor vehicle upon the highways.

23 (6) A person the department reasonably believes is unable to understand highway signs that
24 warn, regulate or direct traffic.

25 (7) A person who is required to make future responsibility filings but has not made filings as
26 required.

27 (8) A person who cannot be issued a license under the Driver License Compact under ORS
28 802.540.

29 (9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose
30 driving privileges are currently under suspension or revocation in any other state upon grounds
31 which, if committed in this state, would be grounds for the suspension or revocation of the driving
32 privileges of the person.

33 (10) A person who has been declared a habitual offender under ORS 809.640. A person declared
34 not eligible to be licensed under this subsection may become eligible by having eligibility restored
35 under ORS 809.640.

36 (11) A person whose driving privileges are canceled in this state under ORS 809.310 until the
37 person is eligible under ORS 809.310.

38 (12) A person while the person's driving privileges are revoked in this state.

39 (13) A person during a period when the person's driving privileges are suspended in this state.

40 (14) A person who holds a current out-of-state license or driver permit or a valid Oregon license
41 or driver permit. A person who is not eligible under this subsection may become eligible by sur-
42 rendering the license, driver permit or out-of-state license or driver permit to the department before
43 issuance of the license. Nothing in this subsection authorizes a person to continue to operate a
44 motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS
45 807.062 to obtain an Oregon license or permit.

1 (15) A person who has not complied with the requirements and responsibilities created by cita-
2 tion for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530
3 authorizes the department to withhold issuance of a license.

4 (16) A person who has not complied with the requirements of section 2, chapter 9, Oregon Laws
5 2012.

6 **SECTION 9. The amendments to ORS 807.060 by section 8 of this 2013 Act become oper-**
7 **ative on January 2, 2018.**

8 **SECTION 10.** ORS 807.060, as amended by sections 4 and 5, chapter 9, Oregon Laws 2012, is
9 amended to read:

10 807.060. The Department of Transportation may not grant driving privileges to a person under
11 a license if the person is not eligible under this section. The following are not eligible for a license:

12 (1) A person under 16 years of age.

13 (2)(a) A person under 18 years of age who is not an emancipated minor unless the application
14 of the person is signed by the person's mother, father or legal guardian. A person who signs an ap-
15 plication under this paragraph may have the driving privileges canceled as provided under ORS
16 809.320.

17 (b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

18 (3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible
19 for a commercial driver license.

20 (4) A person that the department determines has a problem condition involving [*alcohol,*
21 *inhalants or controlled substances*] **intoxicants** as described under ORS 813.040.

22 (5) A person the department reasonably believes has a mental or physical condition or impair-
23 ment that affects the person's ability to safely operate a motor vehicle upon the highways.

24 (6) A person the department reasonably believes is unable to understand highway signs that
25 warn, regulate or direct traffic.

26 (7) A person who is required to make future responsibility filings but has not made filings as
27 required.

28 (8) A person who cannot be issued a license under the Driver License Compact under ORS
29 802.540.

30 (9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose
31 driving privileges are currently under suspension or revocation in any other state upon grounds
32 which, if committed in this state, would be grounds for the suspension or revocation of the driving
33 privileges of the person.

34 (10) A person who has been declared a habitual offender under ORS 809.640. A person declared
35 not eligible to be licensed under this subsection may become eligible by having eligibility restored
36 under ORS 809.640.

37 (11) A person whose driving privileges are canceled in this state under ORS 809.310 until the
38 person is eligible under ORS 809.310.

39 (12) A person while the person's driving privileges are revoked in this state.

40 (13) A person during a period when the person's driving privileges are suspended in this state.

41 (14) A person who holds a current out-of-state license or driver permit or a valid Oregon license
42 or driver permit. A person who is not eligible under this subsection may become eligible by sur-
43 rendering the license, driver permit or out-of-state license or driver permit to the department before
44 issuance of the license. Nothing in this subsection authorizes a person to continue to operate a
45 motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS

1 807.062 to obtain an Oregon license or permit.

2 (15) A person who has not complied with the requirements and responsibilities created by cita-
3 tion for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530
4 authorizes the department to withhold issuance of a license.

5 **SECTION 11.** ORS 807.060, as amended by sections 4 and 5, chapter 9, Oregon Laws 2012, and
6 section 10 of this 2013 Act is amended to read:

7 807.060. The Department of Transportation may not grant driving privileges to a person under
8 a license if the person is not eligible under this section. The following are not eligible for a license:

9 (1) A person under 16 years of age.

10 (2)(a) A person under 18 years of age who is not an emancipated minor unless the application
11 of the person is signed by the person's mother, father or legal guardian. A person who signs an ap-
12 plication under this paragraph may have the driving privileges canceled as provided under ORS
13 809.320.

14 (b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

15 (3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible
16 for a commercial driver license.

17 (4) A person that the department determines has a problem condition involving [*intoxicants*] **al-**
18 **cohol, inhalants or controlled substances** as described under ORS 813.040.

19 (5) A person the department reasonably believes has a mental or physical condition or impair-
20 ment that affects the person's ability to safely operate a motor vehicle upon the highways.

21 (6) A person the department reasonably believes is unable to understand highway signs that
22 warn, regulate or direct traffic.

23 (7) A person who is required to make future responsibility filings but has not made filings as
24 required.

25 (8) A person who cannot be issued a license under the Driver License Compact under ORS
26 802.540.

27 (9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose
28 driving privileges are currently under suspension or revocation in any other state upon grounds
29 which, if committed in this state, would be grounds for the suspension or revocation of the driving
30 privileges of the person.

31 (10) A person who has been declared a habitual offender under ORS 809.640. A person declared
32 not eligible to be licensed under this subsection may become eligible by having eligibility restored
33 under ORS 809.640.

34 (11) A person whose driving privileges are canceled in this state under ORS 809.310 until the
35 person is eligible under ORS 809.310.

36 (12) A person while the person's driving privileges are revoked in this state.

37 (13) A person during a period when the person's driving privileges are suspended in this state.

38 (14) A person who holds a current out-of-state license or driver permit or a valid Oregon license
39 or driver permit. A person who is not eligible under this subsection may become eligible by sur-
40 rendering the license, driver permit or out-of-state license or driver permit to the department before
41 issuance of the license. Nothing in this subsection authorizes a person to continue to operate a
42 motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS
43 807.062 to obtain an Oregon license or permit.

44 (15) A person who has not complied with the requirements and responsibilities created by cita-
45 tion for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530

1 authorizes the department to withhold issuance of a license.

2 **SECTION 12. The amendments to ORS 807.060 by section 11 of this 2013 Act become op-**
3 **erative on January 2, 2018.**

4 **SECTION 13.** ORS 807.250 is amended to read:

5 807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions
6 under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit
7 under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction
8 of any of the following unless the person submits to the department a recommendation from the
9 judge before whom the person was convicted:

10 (a) ORS 811.140.

11 (b) ORS 811.540.

12 (c) Driving while under the influence of intoxicants. If a person's driving privileges are sus-
13 pended for a conviction for driving while under the influence of intoxicants and the person is de-
14 termined under ORS 813.500 to have a problem condition involving [*alcohol, inhalants or controlled*
15 *substances*] **intoxicants** as described in ORS 813.040, the judge must:

16 (A) Make the recommendation with reference to the best interest of the public as well as of the
17 defendant and the recommendation must be in writing.

18 (B) Recommend times, places, routes and days minimally necessary for the person to seek or
19 retain employment, to attend any alcohol or drug treatment or rehabilitation program or to receive
20 necessary medical treatment for the person or a member of the person's immediate family.

21 (2) The department may not issue a hardship permit to a person whose suspension of driving
22 privileges is based on a conviction described in ORS 809.265.

23 (3) The department may not issue a hardship permit to a person whose driver license or driver
24 permit is suspended pursuant to ORS 25.750 to 25.783.

25 (4) The department may not issue a hardship permit to a person whose driving privileges are
26 suspended pursuant to ORS 809.280 (4) or 809.416 (1) or (2).

27 **SECTION 14.** ORS 807.250, as amended by section 13 of this 2013 Act, is amended to read:

28 807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions
29 under ORS 813.500 and 813.520, the Department of Transportation may not issue a hardship permit
30 under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction
31 of any of the following unless the person submits to the department a recommendation from the
32 judge before whom the person was convicted:

33 (a) ORS 811.140.

34 (b) ORS 811.540.

35 (c) Driving while under the influence of intoxicants. If a person's driving privileges are sus-
36 pended for a conviction for driving while under the influence of intoxicants and the person is de-
37 termined under ORS 813.500 to have a problem condition involving [*intoxicants*] **alcohol, inhalants**
38 **or controlled substances** as described in ORS 813.040, the judge must:

39 (A) Make the recommendation with reference to the best interest of the public as well as of the
40 defendant and the recommendation must be in writing.

41 (B) Recommend times, places, routes and days minimally necessary for the person to seek or
42 retain employment, to attend any alcohol or drug treatment or rehabilitation program or to receive
43 necessary medical treatment for the person or a member of the person's immediate family.

44 (2) The department may not issue a hardship permit to a person whose suspension of driving
45 privileges is based on a conviction described in ORS 809.265.

1 (3) The department may not issue a hardship permit to a person whose driver license or driver
2 permit is suspended pursuant to ORS 25.750 to 25.783.

3 (4) The department may not issue a hardship permit to a person whose driving privileges are
4 suspended pursuant to ORS 809.280 (4) or 809.416 (1) or (2).

5 **SECTION 15. The amendments to ORS 807.250 by section 14 of this 2013 Act become op-**
6 **erative on January 2, 2018.**

7 **SECTION 16.** ORS 809.235 is amended to read:

8 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
9 privileges be permanently revoked if the person is convicted of any degree of murder and the court
10 finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the
11 death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in
12 the first or second degree resulting from the operation of a motor vehicle, criminally negligent
13 homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from
14 the operation of a motor vehicle.

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

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

20 (i) ORS 813.010; or

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

22 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
23 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
24 *or any combination thereof*] **an intoxicant or a combination of intoxicants.**

25 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
26 blood alcohol content above that jurisdiction's permissible blood alcohol content.

27 (c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in
28 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
29 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
30 of age or older does not constitute a prior conviction.

31 (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this sec-
32 tion may file a petition in the circuit court of the county in which the person's driving privileges
33 were revoked for an order restoring the person's driving privileges. A petition may be filed under
34 this subsection no sooner than 10 years after the person is:

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

37 (B) Sentenced to probation for the crime for which the person's driving privileges were revoked,
38 unless the probation is revoked, in which case the petition may be filed no sooner than 10 years
39 after the date probation is revoked; or

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

42 (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the
43 crime for which the person was convicted the person is convicted of a criminal offense involving a
44 motor vehicle, the person may file a petition to restore driving privileges as described in paragraph
45 (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving

1 a motor vehicle.

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

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

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

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

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

10 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
11 chological evaluation ordered by the court to determine whether the person is presently a threat to
12 the safety of the public.

13 (e) Any other relevant factors.

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

16 (a) Is rehabilitated;

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

18 (c) If the sentence for the crime for which the petitioner's driving privileges were revoked re-
19 quired the petitioner to complete an alcohol or drug treatment program, has completed an alcohol
20 or drug treatment program in a facility approved by the Director of the Oregon Health Authority
21 or a similar program in another jurisdiction.

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

26 **SECTION 17.** ORS 809.235, as amended by section 16 of this 2013 Act, is amended to read:

27 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
28 privileges be permanently revoked if the person is convicted of any degree of murder and the court
29 finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the
30 death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in
31 the first or second degree resulting from the operation of a motor vehicle, criminally negligent
32 homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from
33 the operation of a motor vehicle.

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

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

39 (i) ORS 813.010; or

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

41 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
42 impaired driving of a vehicle due to the use of [*an intoxicant or a combination of intoxicants*]
43 **intoxicating liquor, a controlled substance, an inhalant or any combination thereof.**

44 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
45 blood alcohol content above that jurisdiction's permissible blood alcohol content.

1 (c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in
2 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
3 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
4 of age or older does not constitute a prior conviction.

5 (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this sec-
6 tion may file a petition in the circuit court of the county in which the person's driving privileges
7 were revoked for an order restoring the person's driving privileges. A petition may be filed under
8 this subsection no sooner than 10 years after the person is:

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

11 (B) Sentenced to probation for the crime for which the person's driving privileges were revoked,
12 unless the probation is revoked, in which case the petition may be filed no sooner than 10 years
13 after the date probation is revoked; or

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

16 (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the
17 crime for which the person was convicted the person is convicted of a criminal offense involving a
18 motor vehicle, the person may file a petition to restore driving privileges as described in paragraph
19 (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving
20 a motor vehicle.

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

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

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

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

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

29 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
30 chological evaluation ordered by the court to determine whether the person is presently a threat to
31 the safety of the public.

32 (e) Any other relevant factors.

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

35 (a) Is rehabilitated;

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

37 (c) If the sentence for the crime for which the petitioner's driving privileges were revoked re-
38 quired the petitioner to complete an alcohol or drug treatment program, has completed an alcohol
39 or drug treatment program in a facility approved by the Director of the Oregon Health Authority
40 or a similar program in another jurisdiction.

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

45 **SECTION 18. The amendments to ORS 809.235 by section 17 of this 2013 Act become op-**

1 **erative on January 2, 2018.**

2 **SECTION 19.** ORS 809.265 is amended to read:

3 809.265. (1) Unless the court finds compelling circumstances not to order suspension of driving
4 privileges, the court in which a person is convicted of an offense described in this subsection shall
5 order suspension of the person's driving privileges. This subsection applies when a person is con-
6 victed of:

7 (a) Any offense involving manufacturing, possession or delivery of controlled substances.

8 (b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
9 ordinance if the person was under the influence of an [*inhalant or a controlled substance*] **intoxicant**
10 **other than intoxicating liquor.**

11 (2) Upon receipt of an order under this section, the department shall take action as directed
12 under ORS 809.280.

13 **SECTION 20.** ORS 809.265, as amended by section 19 of this 2013 Act, is amended to read:

14 809.265. (1) Unless the court finds compelling circumstances not to order suspension of driving
15 privileges, the court in which a person is convicted of an offense described in this subsection shall
16 order suspension of the person's driving privileges. This subsection applies when a person is con-
17 victed of:

18 (a) Any offense involving manufacturing, possession or delivery of controlled substances.

19 (b) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
20 ordinance if the person was under the influence of an [*intoxicant other than intoxicating liquor*]
21 **inhalant or a controlled substance.**

22 (2) Upon receipt of an order under this section, the department shall take action as directed
23 under ORS 809.280.

24 **SECTION 21. The amendments to ORS 809.265 by section 20 of this 2013 Act become op-**
25 **erative on January 2, 2018.**

26 **SECTION 22.** ORS 809.730 is amended to read:

27 809.730. (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is
28 arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS
29 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been
30 convicted of:

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

32 (A) ORS 813.010; or

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

34 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
35 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
36 *or any combination thereof*] **an intoxicant or a combination of intoxicants;**

37 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
38 blood alcohol content above that jurisdiction's permissible blood alcohol content;

39 (d) Murder, manslaughter, criminally negligent homicide or assault that resulted from the oper-
40 ation of a motor vehicle in this state or in another jurisdiction; or

41 (e) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended
42 or revoked under ORS 163.196.

43 (2) For the purposes of subsection (1) of this section, a conviction for a driving offense in an-
44 other jurisdiction based solely on a person under 21 years of age having a blood alcohol content that
45 is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age

1 or older does not constitute a prior conviction.

2 (3) All seizure and forfeiture proceedings under this section shall be conducted in accordance
3 with ORS chapter 131A.

4 **SECTION 23.** ORS 809.730, as amended by section 22 of this 2013 Act, is amended to read:

5 809.730. (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is
6 arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS
7 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been
8 convicted of:

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

10 (A) ORS 813.010; or

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

12 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
13 impaired driving of a vehicle due to the use of [*an intoxicant or a combination of intoxicants*]
14 **intoxicating liquor, a controlled substance, an inhalant or any combination thereof;**

15 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
16 blood alcohol content above that jurisdiction's permissible blood alcohol content;

17 (d) Murder, manslaughter, criminally negligent homicide or assault that resulted from the oper-
18 ation of a motor vehicle in this state or in another jurisdiction; or

19 (e) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended
20 or revoked under ORS 163.196.

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

25 (3) All seizure and forfeiture proceedings under this section shall be conducted in accordance
26 with ORS chapter 131A.

27 **SECTION 24. The amendments to ORS 813.730 by section 23 of this 2013 Act become op-**
28 **erative on January 2, 2018.**

29 **SECTION 25.** ORS 813.010 is amended to read:

30 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if
31 the person drives a vehicle while the person:

32 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by
33 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

34 (b) Is under the influence of [*intoxicating liquor, a controlled substance or an inhalant*] **an**
35 **intoxicant;** or

36 (c) Is under the influence of any combination of [*intoxicating liquor, an inhalant and a controlled*
37 *substance*] **intoxicants.**

38 (2) A person may not be convicted of driving while under the influence of intoxicants on the
39 basis of being under the influence of **a drug listed in section 2 (4) of this 2013 Act**, a controlled
40 substance or an inhalant unless the fact that the person was under the influence of **a drug listed**
41 **in section 2 (4) of this 2013 Act**, a controlled substance or an inhalant is pleaded in the accusatory
42 instrument [*and is either proved at trial or is admitted by the person through a guilty plea*].

43 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-
44 dition to this section.

45 (4) Except as provided in subsection (5) of this section, the offense described in this section,

1 driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon
2 any premises open to the public.

3 (5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense
4 was committed in a motor vehicle and the person has, at least three times in the 10 years prior to
5 the date of the current offense, been convicted of, or been found to be within the jurisdiction of the
6 juvenile court for an act that if committed by an adult would be, any of the following offenses in
7 any combination:

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

9 (i) This section; or

10 (ii) The statutory counterpart to this section in another jurisdiction.

11 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
12 impaired driving or operation of a vehicle, an aircraft or a boat due to the use of [*intoxicating liquor,*
13 *a controlled substance, an inhalant or any combination thereof*] **an intoxicant or a combination of**
14 **intoxicants.**

15 (C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a
16 boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol con-
17 tent.

18 (b) For the purposes of paragraph (a) of this subsection, a conviction or adjudication for a
19 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
20 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
21 person 21 years of age or older does not constitute a prior conviction or adjudication.

22 (6) In addition to any other sentence that may be imposed, the court shall impose one or more
23 of the following fines on a person convicted of driving while under the influence of intoxicants as
24 follows:

25 (a) For a person's first conviction, a minimum of \$1,000.

26 (b) For a person's second conviction, a minimum of \$1,500.

27 (c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sen-
28 tenced to a term of imprisonment.

29 (d) For a person who drives a vehicle while the person has 0.15 percent or more by weight of
30 alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the per-
31 son made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

32 (7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a
33 person convicted of driving while under the influence of intoxicants if:

34 (a) The current offense was committed in a motor vehicle; and

35 (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least
36 three years younger than the person driving the motor vehicle.

37 **SECTION 26.** ORS 813.010, as amended by section 25 of this 2013 Act, is amended to read:

38 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if
39 the person drives a vehicle while the person:

40 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by
41 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

42 (b) Is under the influence of [*an intoxicant*] **intoxicating liquor, a controlled substance or an**
43 **inhalant;** or

44 (c) Is under the influence of any combination of [*intoxicants*] **intoxicating liquor, a controlled**
45 **substance or an inhalant.**

1 (2) A person may not be convicted of driving while under the influence of intoxicants on the
2 basis of being under the influence of [*a drug listed in section 2 (4) of this 2013 Act,*] a controlled
3 substance or an inhalant unless the fact that the person was under the influence of [*a drug listed*
4 *in section 2 (4) of this 2013 Act,*] a controlled substance or an inhalant is pleaded in the accusatory
5 instrument.

6 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-
7 dition to this section.

8 (4) Except as provided in subsection (5) of this section, the offense described in this section,
9 driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon
10 any premises open to the public.

11 (5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense
12 was committed in a motor vehicle and the person has, at least three times in the 10 years prior to
13 the date of the current offense, been convicted of, or been found to be within the jurisdiction of the
14 juvenile court for an act that if committed by an adult would be, any of the following offenses in
15 any combination:

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

17 (i) This section; or

18 (ii) The statutory counterpart to this section in another jurisdiction.

19 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
20 impaired driving or operation of a vehicle, an aircraft or a boat due to the use of [*an intoxicant or*
21 *a combination of intoxicants*] **intoxicating liquor, a controlled substance, an inhalant or any**
22 **combination thereof.**

23 (C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a
24 boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol con-
25 tent.

26 (b) For the purposes of paragraph (a) of this subsection, a conviction or adjudication for a
27 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
28 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
29 person 21 years of age or older does not constitute a prior conviction or adjudication.

30 (6) In addition to any other sentence that may be imposed, the court shall impose one or more
31 of the following fines on a person convicted of driving while under the influence of intoxicants as
32 follows:

33 (a) For a person's first conviction, a minimum of \$1,000.

34 (b) For a person's second conviction, a minimum of \$1,500.

35 (c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sen-
36 tenced to a term of imprisonment.

37 (d) For a person who drives a vehicle while the person has 0.15 percent or more by weight of
38 alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the per-
39 son made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

40 (7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a
41 person convicted of driving while under the influence of intoxicants if:

42 (a) The current offense was committed in a motor vehicle; and

43 (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least
44 three years younger than the person driving the motor vehicle.

45 **SECTION 27. The amendments to ORS 813.010 by section 26 of this 2013 Act become op-**

1 erative on January 2, 2018.

2 **SECTION 28.** Section 29 of this 2013 Act is added to and made a part of the Oregon Ve-
3 hicle Code.

4 **SECTION 29.** (1) For the purposes of this section, “drug” means a drug described in
5 section 2 (4) of this 2013 Act.

6 (2) In a prosecution under ORS 813.010 for driving while under the influence of
7 intoxicants other than intoxicating liquor, a controlled substance or an inhalant, it is an af-
8 firmative defense that:

9 (a) The defendant lawfully obtained and consumed a drug;

10 (b) The defendant consumed the drug in the prescribed or recommended dosage and fol-
11 lowed all directions and warnings relating to consumption of the drug, including directions,
12 if any, from the manufacturer of the drug, the pharmacist who provided the drug to the
13 defendant and the physician or other health care professional who prescribed or recom-
14 mended the drug to the defendant; and

15 (c) The defendant experienced a reaction to the drug that the defendant could not rea-
16 sonably have anticipated and that caused the defendant to be impaired while driving or op-
17 erating the vehicle.

18 (3) A defendant may not assert the affirmative defense described in subsection (2) of this
19 section unless the defendant gives notice of intent to do so in writing filed with the court
20 and served on the prosecuting attorney at least 21 days before the first trial date set for the
21 case. The notice must specify the drug the defendant claims caused the impairment.

22 (4) The affirmative defense provided under this section may be asserted only with respect
23 to the impairment that was caused by an unanticipated adverse reaction to the drug specified
24 in the notice given under subsection (3) of this section, and may not be asserted with respect
25 to impairment caused by use of the drug specified in the notice if that drug was used in
26 conjunction with intoxicating liquor, a controlled substance or an inhalant.

27 **SECTION 30.** Section 29 of this 2013 Act is repealed on January 2, 2018.

28 **SECTION 31.** ORS 813.040 is amended to read:

29 813.040. This section establishes, for purposes of ORS 471.432, 807.060 and 813.500, when a per-
30 son has a problem condition involving [*alcohol, inhalants or controlled substances*] **intoxicants**. For
31 purposes of ORS 471.432, 807.060 and 813.500, a person has a problem condition involving [*alcohol,*
32 *inhalants or controlled substances*] **intoxicants** if it is determined that the person has a problem
33 condition in which the person’s health or that of others is substantially impaired or endangered or
34 the person’s social or economic function is substantially disrupted because of the person’s:

35 (1) Habitual or periodic use of alcoholic beverages; or

36 (2) Use of or loss of the ability to control the use of controlled substances, inhalants or other
37 substances with abuse potential including a condition that may have developed:

38 (a) A physical dependence in which the body requires a continuing supply of a drug, inhalant
39 or controlled substance to avoid characteristic withdrawal symptoms; or

40 (b) A psychological dependence characterized by an overwhelming mental desire for continued
41 use of a drug, inhalant or controlled substance.

42 **SECTION 32.** ORS 813.040, as amended by section 31 of this 2013 Act, is amended to read:

43 813.040. This section establishes, for purposes of ORS 471.432, 807.060 and 813.500, when a per-
44 son has a problem condition involving [*intoxicants*] **alcohol, inhalants or controlled substances**.
45 For purposes of ORS 471.432, 807.060 and 813.500, a person has a problem condition involving

1 [intoxicants] **alcohol, inhalants or controlled substances** if it is determined that the person has
2 a problem condition in which the person's health or that of others is substantially impaired or en-
3 dangered or the person's social or economic function is substantially disrupted because of the
4 person's:

5 (1) Habitual or periodic use of alcoholic beverages; or

6 (2) Use of or loss of the ability to control the use of controlled substances, inhalants or other
7 substances with abuse potential including a condition that may have developed:

8 (a) A physical dependence in which the body requires a continuing supply of a drug, inhalant
9 or controlled substance to avoid characteristic withdrawal symptoms; or

10 (b) A psychological dependence characterized by an overwhelming mental desire for continued
11 use of a drug, inhalant or controlled substance.

12 **SECTION 33. The amendments to ORS 813.040 by section 32 of this 2013 Act become op-**
13 **erative on January 2, 2018.**

14 **SECTION 34.** ORS 813.131 is amended to read:

15 813.131. (1) Any person who operates a motor vehicle upon premises open to the public or the
16 highways of this state shall be deemed to have given consent, subject to the Motorist Implied Con-
17 sent Law, to a chemical test of the person's urine for the purpose of determining the presence of
18 [a controlled substance or an inhalant] **an intoxicant other than intoxicating liquor** in the person's
19 body if the person is arrested for driving while under the influence of intoxicants in violation of
20 ORS 813.010 or of a municipal ordinance and either:

21 (a) The person takes the breath test described in ORS 813.100 and the test discloses a blood
22 alcohol content of less than 0.08 percent; or

23 (b) The person is involved in an accident resulting in injury or property damage. A urine test
24 may be requested under this paragraph regardless of whether a breath test has been requested and
25 regardless of the results of a breath test, if one is taken.

26 (2) A police officer may not request a urine test unless the officer is certified by the Board on
27 Public Safety Standards and Training as having completed at least eight hours of training in re-
28 cognition of drug impaired driving and the officer has a reasonable suspicion that the person ar-
29 rested has been driving while under the influence of [a controlled substance, an inhalant] **an**
30 **intoxicant other than intoxicating liquor** or any combination of [an inhalant, a controlled sub-
31 stance and intoxicating liquor] **intoxicants**.

32 (3) A person asked to give a urine sample shall be given privacy and may not be observed by
33 a police officer when producing the sample.

34 (4)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts
35 committed by a person driving a motor vehicle while under the influence of intoxicants, a valid
36 chemical analysis of a person's urine is admissible as evidence and may be used with other evidence,
37 if any, to determine whether the person was driving while under the influence of intoxicants.

38 (b) A chemical analysis of a person's urine is valid under this subsection if analysis is performed
39 in an accredited or licensed toxicology laboratory.

40 **SECTION 35.** ORS 813.131, as amended by section 34 of this 2013 Act, is amended to read:

41 813.131. (1) Any person who operates a motor vehicle upon premises open to the public or the
42 highways of this state shall be deemed to have given consent, subject to the Motorist Implied Con-
43 sent Law, to a chemical test of the person's urine for the purpose of determining the presence of
44 [an intoxicant other than intoxicating liquor] **a controlled substance or an inhalant** in the person's
45 body if the person is arrested for driving while under the influence of intoxicants in violation of

1 ORS 813.010 or of a municipal ordinance and either:

2 (a) The person takes the breath test described in ORS 813.100 and the test discloses a blood
3 alcohol content of less than 0.08 percent; or

4 (b) The person is involved in an accident resulting in injury or property damage. A urine test
5 may be requested under this paragraph regardless of whether a breath test has been requested and
6 regardless of the results of a breath test, if one is taken.

7 (2) A police officer may not request a urine test unless the officer is certified by the Board on
8 Public Safety Standards and Training as having completed at least eight hours of training in re-
9 cognition of drug impaired driving and the officer has a reasonable suspicion that the person ar-
10 rested has been driving while under the influence of [*an intoxicant other than intoxicating liquor*] a
11 **controlled substance or an inhalant** or any combination of [*intoxicants*] **an inhalant, a controlled**
12 **substance and intoxicating liquor.**

13 (3) A person asked to give a urine sample shall be given privacy and may not be observed by
14 a police officer when producing the sample.

15 (4)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts
16 committed by a person driving a motor vehicle while under the influence of intoxicants, a valid
17 chemical analysis of a person's urine is admissible as evidence and may be used with other evidence,
18 if any, to determine whether the person was driving while under the influence of intoxicants.

19 (b) A chemical analysis of a person's urine is valid under this subsection if analysis is performed
20 in an accredited or licensed toxicology laboratory.

21 **SECTION 36. The amendments to ORS 813.131 by section 35 of this 2013 Act become op-**
22 **erative on January 2, 2018.**

23 **SECTION 37.** ORS 813.140 is amended to read:

24 813.140. Nothing in ORS 813.100 is intended to preclude the administration of a chemical test
25 described in this section. A police officer may obtain a chemical test of the blood to determine the
26 amount of [*alcohol*] **intoxicants** in any person's blood or a test of the person's [*blood or*] urine[, *or*
27 *both,*] to determine the presence of [*a controlled substance or an inhalant*] **an intoxicant other than**
28 **intoxicating liquor** in the person as provided in the following:

29 (1) If, when requested by a police officer, the person expressly consents to such a test.

30 (2) Notwithstanding subsection (1) of this section, from a person without the person's consent
31 if:

32 (a) The police officer has probable cause to believe that the person was driving while under the
33 influence of intoxicants and that evidence of the offense will be found in the person's blood or urine;
34 and

35 (b) The person is unconscious or otherwise in a condition rendering the person incapable of
36 expressly consenting to the test or tests requested.

37 **SECTION 38.** ORS 813.140, as amended by section 37 of this 2013 Act, is amended to read:

38 813.140. Nothing in ORS 813.100 is intended to preclude the administration of a chemical test
39 described in this section. A police officer may obtain a chemical test of the blood to determine the
40 amount of [*intoxicants*] **alcohol** in any person's blood or a test of the person's **blood or** urine, **or**
41 **both,** to determine the presence of [*an intoxicant other than intoxicating liquor*] **a controlled sub-**
42 **stance or an inhalant** in the person as provided in the following:

43 (1) If, when requested by a police officer, the person expressly consents to such a test.

44 (2) Notwithstanding subsection (1) of this section, from a person without the person's consent
45 if:

1 (a) The police officer has probable cause to believe that the person was driving while under the
2 influence of intoxicants and that evidence of the offense will be found in the person's blood or urine;
3 and

4 (b) The person is unconscious or otherwise in a condition rendering the person incapable of
5 expressly consenting to the test or tests requested.

6 **SECTION 39. The amendments to ORS 813.140 by section 38 of this 2013 Act become op-**
7 **erative on January 2, 2018.**

8 **SECTION 40.** ORS 813.150 is amended to read:

9 813.150. *[In addition to a chemical test of the breath, blood or urine administered under ORS*
10 *813.100 or 813.140, upon the request of a police officer, a person shall be permitted upon request, at the*
11 *person's own expense, reasonable opportunity to have any licensed physician and surgeon, licensed*
12 *professional nurse or qualified technician, chemist or other qualified person of the person's own*
13 *choosing administer a chemical test or tests of the person's breath or blood for the purpose of deter-*
14 *mining the alcoholic content of the person's blood or a chemical test or tests of the person's blood or*
15 *urine, or both, for the purpose of determining the presence of a controlled substance or an inhalant in*
16 *the person. The failure or inability to obtain such a test or tests by a person shall not preclude the*
17 *admission of evidence relating to a test or tests taken upon the request of a police officer.]*

18 **(1) In addition to a chemical test of the breath, blood or urine administered under ORS**
19 **813.100 or 813.140, upon the request of a police officer, a person shall be permitted upon re-**
20 **quest, at the person's own expense, reasonable opportunity to have any licensed physician**
21 **and surgeon, licensed professional nurse or qualified technician, chemist or other qualified**
22 **person of the person's own choosing administer a chemical test or tests of the person's:**

23 **(a) Breath for the purpose of determining the alcoholic content of the person's blood;**

24 **(b) Blood for the purpose of determining the presence of intoxicants in the person's**
25 **blood; or**

26 **(c) Urine for the purpose of determining the presence of intoxicants other than**
27 **intoxicating liquor in the person.**

28 **(2) The failure or inability of a person to obtain a test or tests as described in subsection**
29 **(1) of this section does not preclude the admission of evidence relating to a test or tests**
30 **taken upon the request of a police officer.**

31 **SECTION 41.** ORS 813.150, as amended by section 40 of this 2013 Act, is amended to read:

32 813.150. *[(1) In addition to a chemical test of the breath, blood or urine administered under ORS*
33 *813.100 or 813.140, upon the request of a police officer, a person shall be permitted upon request, at the*
34 *person's own expense, reasonable opportunity to have any licensed physician and surgeon, licensed*
35 *professional nurse or qualified technician, chemist or other qualified person of the person's own*
36 *choosing administer a chemical test or tests of the person's:]*

37 *[(a) Breath for the purpose of determining the alcoholic content of the person's blood;]*

38 *[(b) Blood for the purpose of determining the presence of intoxicants in the person's blood; or]*

39 *[(c) Urine for the purpose of determining the presence of intoxicants other than intoxicating liquor*
40 *in the person.]*

41 *[(2) The failure or inability of a person to obtain a test or tests as described in subsection (1) of*
42 *this section does not preclude the admission of evidence relating to a test or tests taken upon the request*
43 *of a police officer.]* **In addition to a chemical test of the breath, blood or urine administered**
44 **under ORS 813.100 or 813.140, upon the request of a police officer, a person shall be permitted**
45 **upon request, at the person's own expense, reasonable opportunity to have any licensed**

1 **physician and surgeon, licensed professional nurse or qualified technician, chemist or other**
2 **qualified person of the person's own choosing administer a chemical test or tests of the**
3 **person's breath or blood for the purpose of determining the alcoholic content of the person's**
4 **blood or a chemical test or tests of the person's blood or urine, or both, for the purpose of**
5 **determining the presence of a controlled substance or an inhalant in the person. The failure**
6 **or inability to obtain such a test or tests by a person shall not preclude the admission of**
7 **evidence relating to a test or tests taken upon the request of a police officer.**

8 **SECTION 42. The amendments to ORS 813.150 by section 41 of this 2013 Act become op-**
9 **erative on January 2, 2018.**

10 **SECTION 43.** ORS 813.215 is amended to read:

11 813.215. (1) A defendant is eligible for diversion if the defendant meets all of the following con-
12 ditions:

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

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

17 (i) ORS 813.010; or

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

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

22 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
23 blood alcohol content above that jurisdiction's permissible blood alcohol content.

24 (b) The defendant has not been convicted of an offense described in paragraph (a) of this sub-
25 section within the period beginning 15 years before the date of the commission of the present offense
26 and ending on the date the defendant filed the petition for a driving while under the influence of
27 intoxicants diversion agreement.

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

29 (d) The defendant was not participating in a driving while under the influence of intoxicants
30 diversion program or in any similar alcohol or drug rehabilitation program, other than a program
31 entered into as a result of the charge for the present offense, in this state or in another jurisdiction
32 on the date the defendant filed the petition for a driving while under the influence of intoxicants
33 diversion agreement.

34 (e) The defendant did not participate in a diversion or rehabilitation program described in par-
35 agraph (d) of this subsection, other than a program entered into as a result of the charge for the
36 present offense, within the period beginning 15 years before the date of the commission of the
37 present offense and ending on the date the defendant filed the petition for a driving while under the
38 influence of intoxicants diversion agreement.

39 (f) The defendant had no charge of an offense of aggravated vehicular homicide or of murder,
40 manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor
41 vehicle pending in this state or in another jurisdiction on the date the defendant filed the petition
42 for a driving while under the influence of intoxicants diversion agreement.

43 (g) The defendant has not been convicted of an offense described in paragraph (f) of this sub-
44 section within the period beginning 15 years before the date of the commission of the present offense
45 and ending on the date the defendant filed the petition for a driving while under the influence of

1 intoxicants diversion agreement.

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

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

5 (j) The present driving while under the influence of intoxicants offense did not involve an acci-
6 dent resulting in:

7 (A) Death of any person; or

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

9 (2) For the purposes of subsection (1)(a) of this section, a conviction for a driving offense in
10 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
11 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
12 of age or older does not constitute a prior conviction.

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

18 **SECTION 44.** ORS 813.215, as amended by section 43 of this 2013 Act, is amended to read:

19 813.215. (1) A defendant is eligible for diversion if the defendant meets all of the following con-
20 ditions:

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

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

25 (i) ORS 813.010; or

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

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

30 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
31 blood alcohol content above that jurisdiction's permissible blood alcohol content.

32 (b) The defendant has not been convicted of an offense described in paragraph (a) of this sub-
33 section within the period beginning 15 years before the date of the commission of the present offense
34 and ending on the date the defendant filed the petition for a driving while under the influence of
35 intoxicants diversion agreement.

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

37 (d) The defendant was not participating in a driving while under the influence of intoxicants
38 diversion program or in any similar alcohol or drug rehabilitation program, other than a program
39 entered into as a result of the charge for the present offense, in this state or in another jurisdiction
40 on the date the defendant filed the petition for a driving while under the influence of intoxicants
41 diversion agreement.

42 (e) The defendant did not participate in a diversion or rehabilitation program described in par-
43 agraph (d) of this subsection, other than a program entered into as a result of the charge for the
44 present offense, within the period beginning 15 years before the date of the commission of the
45 present offense and ending on the date the defendant filed the petition for a driving while under the

1 influence of intoxicants diversion agreement.

2 (f) The defendant had no charge of an offense of aggravated vehicular homicide or of murder,
3 manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor
4 vehicle pending in this state or in another jurisdiction on the date the defendant filed the petition
5 for a driving while under the influence of intoxicants diversion agreement.

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

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

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

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

15 (A) Death of any person; or

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

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

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

26 **SECTION 45. The amendments to ORS 813.215 by section 44 of this 2013 Act become op-**
27 **erative on January 2, 2018.**

28 **SECTION 46.** ORS 813.220 is amended to read:

29 813.220. After the time for requesting a hearing under ORS 813.210 has expired with no request
30 for a hearing, or after a hearing requested under ORS 813.210, the court shall determine whether
31 to allow or deny a petition for a driving while under the influence of intoxicants diversion agree-
32 ment. In making a determination under this section, the court:

33 (1) Shall consider whether the diversion will be of benefit to the defendant and the community.

34 (2) May take into consideration whether there was an early recognition by the defendant during
35 the proceeding that a course of diagnosis and treatment of problem drinking, alcoholism or drug
36 dependency would be beneficial.

37 (3) May take into consideration whether there is a probability that the defendant will cooperate
38 with the diagnostic assessment and treatment agencies.

39 (4) May take into consideration whether the defendant will observe the restrictions contained
40 in the diversion agreement.

41 (5) May take into consideration whether the offense was committed in a motor vehicle and
42 whether there was a passenger in the motor vehicle who was under 18 years of age and at least
43 three years younger than the defendant.

44 (6) Shall deny the petition for a driving while under the influence of intoxicants diversion
45 agreement if the defendant failed to appear at an arraignment on the present offense without good

1 cause.

2 (7) Shall deny the petition for a driving while under the influence of intoxicants diversion
3 agreement if, after the date the defendant filed the petition, the defendant was charged with or
4 convicted of:

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

6 (A) ORS 813.010; or

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

8 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
9 impaired driving of a vehicle due to the use of [*intoxicating liquor, a controlled substance, an inhalant*
10 *or any combination thereof*] **an intoxicant or a combination of intoxicants**; or

11 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
12 blood alcohol content above that jurisdiction's permissible blood alcohol content.

13 (8) Shall deny the petition for a driving while under the influence of intoxicants diversion
14 agreement if the defendant participated in a driving while under the influence of intoxicants diver-
15 sion program or in any similar alcohol or drug rehabilitation program, other than a program entered
16 into as a result of the charge for the present offense, in this state or in another jurisdiction after
17 the date the defendant filed the petition.

18 (9) Shall deny the petition for a driving while under the influence of intoxicants diversion
19 agreement if the defendant was charged with or convicted of an offense of aggravated vehicular
20 homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the
21 operation of a motor vehicle in this state or in another jurisdiction after the date the defendant filed
22 the petition.

23 (10) Shall deny the petition for a driving while under the influence of intoxicants diversion
24 agreement if the defendant has been convicted of a felony offense described in ORS 813.010 (5)(a).

25 (11) For the purposes of subsection (7) of this section, may not consider a conviction for a
26 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
27 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
28 person 21 years of age or older as a prior conviction.

29 (12) May not deny the petition for a driving while under the influence of intoxicants diversion
30 agreement solely on the basis that the defendant is a member of the Armed Forces of the United
31 States, the reserve components of the Armed Forces of the United States or the National Guard and
32 has been called or demonstrates that the defendant will be called to active duty, and the military
33 service will impair the defendant's ability to complete the diversion program.

34 **SECTION 47.** ORS 813.220, as amended by section 46 of this 2013 Act, is amended to read:

35 813.220. After the time for requesting a hearing under ORS 813.210 has expired with no request
36 for a hearing, or after a hearing requested under ORS 813.210, the court shall determine whether
37 to allow or deny a petition for a driving while under the influence of intoxicants diversion agree-
38 ment. In making a determination under this section, the court:

39 (1) Shall consider whether the diversion will be of benefit to the defendant and the community.

40 (2) May take into consideration whether there was an early recognition by the defendant during
41 the proceeding that a course of diagnosis and treatment of problem drinking, alcoholism or drug
42 dependency would be beneficial.

43 (3) May take into consideration whether there is a probability that the defendant will cooperate
44 with the diagnostic assessment and treatment agencies.

45 (4) May take into consideration whether the defendant will observe the restrictions contained

1 in the diversion agreement.

2 (5) May take into consideration whether the offense was committed in a motor vehicle and
3 whether there was a passenger in the motor vehicle who was under 18 years of age and at least
4 three years younger than the defendant.

5 (6) Shall deny the petition for a driving while under the influence of intoxicants diversion
6 agreement if the defendant failed to appear at an arraignment on the present offense without good
7 cause.

8 (7) Shall deny the petition for a driving while under the influence of intoxicants diversion
9 agreement if, after the date the defendant filed the petition, the defendant was charged with or
10 convicted of:

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

12 (A) ORS 813.010; or

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

14 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
15 impaired driving of a vehicle due to the use of [*an intoxicant or a combination of intoxicants*]
16 **intoxicating liquor, a controlled substance, an inhalant or any combination thereof; or**

17 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
18 blood alcohol content above that jurisdiction's permissible blood alcohol content.

19 (8) Shall deny the petition for a driving while under the influence of intoxicants diversion
20 agreement if the defendant participated in a driving while under the influence of intoxicants diver-
21 sion program or in any similar alcohol or drug rehabilitation program, other than a program entered
22 into as a result of the charge for the present offense, in this state or in another jurisdiction after
23 the date the defendant filed the petition.

24 (9) Shall deny the petition for a driving while under the influence of intoxicants diversion
25 agreement if the defendant was charged with or convicted of an offense of aggravated vehicular
26 homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the
27 operation of a motor vehicle in this state or in another jurisdiction after the date the defendant filed
28 the petition.

29 (10) Shall deny the petition for a driving while under the influence of intoxicants diversion
30 agreement if the defendant has been convicted of a felony offense described in ORS 813.010 (5)(a).

31 (11) For the purposes of subsection (7) of this section, may not consider a conviction for a
32 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
33 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
34 person 21 years of age or older as a prior conviction.

35 (12) May not deny the petition for a driving while under the influence of intoxicants diversion
36 agreement solely on the basis that the defendant is a member of the Armed Forces of the United
37 States, the reserve components of the Armed Forces of the United States or the National Guard and
38 has been called or demonstrates that the defendant will be called to active duty, and the military
39 service will impair the defendant's ability to complete the diversion program.

40 **SECTION 48. The amendments to ORS 813.220 by section 47 of this 2013 Act become op-**
41 **erative on January 2, 2018.**

42 **SECTION 49.** ORS 813.430 is amended to read:

43 813.430. This section establishes circumstances under which ORS 813.420 requires an increase
44 in the time for suspension of driving privileges and under which ORS 813.520 requires an increase
45 in the time before the Department of Transportation may issue a hardship permit. A person is sub-

1 ject to an increase in suspension time under this section if any of the following apply:

2 (1) The person is presently participating in a driving while under the influence of intoxicants
3 diversion program in this state or in any similar alcohol or drug rehabilitation program in this or
4 another jurisdiction.

5 (2) Within the five years preceding the date of arrest any of the following occurred:

6 (a) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replace-
7 ment Part) became effective.

8 (b) The person was convicted of:

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

10 (i) ORS 813.010;

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

12 (iii) A municipal ordinance in this state or another jurisdiction;

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

16 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
17 blood alcohol content above that jurisdiction's permissible blood alcohol content.

18 (c) The person commenced participating in a driving while under the influence of intoxicants
19 diversion program in this state or in any similar alcohol or drug rehabilitation program in this or
20 another jurisdiction.

21 (3) For the purposes of subsection (2)(b) of this section, a conviction for a driving offense in
22 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
23 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
24 of age or older does not constitute a prior conviction.

25 **SECTION 50.** ORS 813.430, as amended by section 49 of this 2013 Act, is amended to read:

26 813.430. This section establishes circumstances under which ORS 813.420 requires an increase
27 in the time for suspension of driving privileges and under which ORS 813.520 requires an increase
28 in the time before the Department of Transportation may issue a hardship permit. A person is sub-
29 ject to an increase in suspension time under this section if any of the following apply:

30 (1) The person is presently participating in a driving while under the influence of intoxicants
31 diversion program in this state or in any similar alcohol or drug rehabilitation program in this or
32 another jurisdiction.

33 (2) Within the five years preceding the date of arrest any of the following occurred:

34 (a) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replace-
35 ment Part) became effective.

36 (b) The person was convicted of:

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

38 (i) ORS 813.010;

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

40 (iii) A municipal ordinance in this state or another jurisdiction;

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

44 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
45 blood alcohol content above that jurisdiction's permissible blood alcohol content.

1 (c) The person commenced participating in a driving while under the influence of intoxicants
2 diversion program in this state or in any similar alcohol or drug rehabilitation program in this or
3 another jurisdiction.

4 (3) For the purposes of subsection (2)(b) of this section, a conviction for a driving offense in
5 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
6 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
7 of age or older does not constitute a prior conviction.

8 **SECTION 51. The amendments to ORS 813.430 by section 50 of this 2013 Act become op-**
9 **erative on January 2, 2018.**

10 **SECTION 52.** ORS 813.500 is amended to read:

11 813.500. (1) If a person's license is suspended for driving while under the influence of intoxicants
12 under ORS 813.400 and the suspension period is determined by ORS 809.428 (2)(b) or (c), the De-
13 partment of Transportation may only issue a hardship permit to the person under ORS 807.240 if the
14 person, in addition to any requirement under ORS 807.240 and any applicable requirements under
15 ORS 807.250 and 813.520:

16 (a) Is examined by the Oregon Health Authority to determine whether the person has a problem
17 condition involving [*alcohol, inhalants or controlled substances*] **intoxicants** as described in ORS
18 813.040; and

19 (b) Complies with the requirements of this section.

20 (2) If the authority determines that the person has a problem condition involving [*alcohol,*
21 *inhalants or controlled substances*] **intoxicants**, as described in ORS 813.040, the department may
22 issue the permit to the person only if both the following apply:

23 (a) The person enrolled in a program for rehabilitation for alcoholism or drug dependence ap-
24 proved by the authority.

25 (b) The authority recommends, on the basis of the person's progress in the rehabilitation pro-
26 gram, such reinstatement in writing to the department. If the authority makes a recommendation
27 under this paragraph, the authority shall state specifically in the recommendation the times, places,
28 routes and days of the week minimally necessary for the person to seek or retain employment, to
29 attend any alcohol or drug treatment or rehabilitation program or to obtain necessary medical
30 treatment for the person or a member of the person's immediate family.

31 (3) If the authority determines that the person does not have a problem condition involving [*al-*
32 *cohol, inhalants or controlled substances*] **intoxicants** as described in ORS 813.040, the department
33 may issue the permit to the person only if, in addition to any requirements under ORS 807.240, the
34 person enters an alcohol or drug information program approved by the authority and the department
35 determines that issuance of a permit is appropriate. If the department issues a permit to a person
36 described in this subsection, the department shall require, under ORS 807.240, that the person com-
37 plete the program as a condition of retaining the permit.

38 **SECTION 53.** ORS 813.500, as amended by section 52 of this 2013 Act, is amended to read:

39 813.500. (1) If a person's license is suspended for driving while under the influence of intoxicants
40 under ORS 813.400 and the suspension period is determined by ORS 809.428 (2)(b) or (c), the De-
41 partment of Transportation may only issue a hardship permit to the person under ORS 807.240 if the
42 person, in addition to any requirement under ORS 807.240 and any applicable requirements under
43 ORS 807.250 and 813.520:

44 (a) Is examined by the Oregon Health Authority to determine whether the person has a problem
45 condition involving [*intoxicants*] **alcohol, inhalants or controlled substances** as described in ORS

1 813.040; and

2 (b) Complies with the requirements of this section.

3 (2) If the authority determines that the person has a problem condition involving [intoxicants]
4 **alcohol, inhalants or controlled substances**, as described in ORS 813.040, the department may
5 issue the permit to the person only if both the following apply:

6 (a) The person enrolled in a program for rehabilitation for alcoholism or drug dependence ap-
7 proved by the authority.

8 (b) The authority recommends, on the basis of the person's progress in the rehabilitation pro-
9 gram, such reinstatement in writing to the department. If the authority makes a recommendation
10 under this paragraph, the authority shall state specifically in the recommendation the times, places,
11 routes and days of the week minimally necessary for the person to seek or retain employment, to
12 attend any alcohol or drug treatment or rehabilitation program or to obtain necessary medical
13 treatment for the person or a member of the person's immediate family.

14 (3) If the authority determines that the person does not have a problem condition involving
15 [intoxicants] **alcohol, inhalants or controlled substances** as described in ORS 813.040, the depart-
16 ment may issue the permit to the person only if, in addition to any requirements under ORS 807.240,
17 the person enters an alcohol or drug information program approved by the authority and the de-
18 partment determines that issuance of a permit is appropriate. If the department issues a permit to
19 a person described in this subsection, the department shall require, under ORS 807.240, that the
20 person complete the program as a condition of retaining the permit.

21 **SECTION 54. The amendments to ORS 813.500 by section 53 of this 2013 Act become op-**
22 **erative on January 2, 2018.**

23 **SECTION 55.** ORS 821.250 is amended to read:

24 821.250. (1) A person commits the offense of permitting dangerous operation of a snowmobile or
25 an all-terrain vehicle if the person is the owner or other person having charge or control of a
26 snowmobile or an all-terrain vehicle and the person knowingly authorizes or permits any person to
27 operate the vehicle across a highway who is:

28 (a) Incapable by reason of age, physical or mental disability; or

29 (b) Under the influence of [intoxicating liquor, inhalants or controlled substances] **an**
30 **intoxicant.**

31 (2) In addition to other penalties provided by this section, operators or owners may be liable
32 as provided under ORS 821.310.

33 (3) The offense described in this section, permitting dangerous operation of a snowmobile or an
34 all-terrain vehicle, is a Class A traffic violation.

35 **SECTION 56.** ORS 821.250, as amended by section 55 of this 2013 Act, is amended to read:

36 821.250. (1) A person commits the offense of permitting dangerous operation of a snowmobile or
37 an all-terrain vehicle if the person is the owner or other person having charge or control of a
38 snowmobile or an all-terrain vehicle and the person knowingly authorizes or permits any person to
39 operate the vehicle across a highway who is:

40 (a) Incapable by reason of age, physical or mental disability; or

41 (b) Under the influence of [an intoxicant] **intoxicating liquor, inhalants or controlled sub-**
42 **stances.**

43 (2) In addition to other penalties provided by this section, operators or owners may be liable
44 as provided under ORS 821.310.

45 (3) The offense described in this section, permitting dangerous operation of a snowmobile or an

1 all-terrain vehicle, is a Class A traffic violation.

2 **SECTION 57. The amendments to ORS 821.250 by section 56 of this 2013 Act become op-**
3 **erative on January 2, 2018.**

4 **SECTION 58. Sections 2 and 29 of this 2013 Act and the amendments to ORS 801.272,**
5 **807.060, 807.250, 809.235, 809.265, 809.730, 813.010, 813.040, 813.131, 813.140, 813.150, 813.215,**
6 **813.220, 813.430, 813.500 and 821.250 by sections 4, 7, 10, 13, 16, 19, 22, 25, 31, 34, 37, 40, 43, 46,**
7 **49, 52 and 55 of this 2013 Act apply to crimes committed on or after the effective date of this**
8 **2013 Act.**

9
