

**Enrolled**  
**House Bill 2116**

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

CHAPTER .....

AN ACT

Relating to driving while under the influence of intoxicants diversion agreements; creating new provisions; and amending ORS 813.602 and 813.606.

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

**SECTION 1.** ORS 813.602, as amended by section 1, chapter 66, Oregon Laws 2012, is amended to read:

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

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

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

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

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

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

- (A) Any degree of murder.
- (B) Manslaughter in the first or second degree.
- (C) Criminally negligent homicide.
- (D) Assault in the first degree.
- (b) Aggravated vehicular homicide.

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

(3)(a) **Except as provided in paragraph (b) of this subsection**, the court shall require as a condition of a driving while under the influence of intoxicants diversion agreement that an approved ignition interlock device be installed **and used** in any vehicle operated by the person during the period of the agreement when the person has driving privileges. In addition to any action taken under ORS 813.255, violation of the condition imposed under this subsection is a Class A traffic violation.

**(b) A court may exempt a person from the condition in a diversion agreement to install and use an ignition interlock device if the court determines that the person meets the requirements for a medical exemption in accordance with rules adopted by the department under this section. A person granted a medical exemption under this paragraph shall carry proof of the medical exemption with the person while operating any vehicle.**

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

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

(6) The department, by rule, shall establish criteria and procedures it will use for qualification to waive or defer costs described under subsection (4) of this section for indigence. The criteria must be consistent with the standards for indigence adopted by the federal government for purposes of the Supplemental Nutrition Assistance Program.

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

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

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

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

(c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in subsection (2) of this section.

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

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

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

(c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in subsection (2) of this section.

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

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

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

**SECTION 2.** ORS 813.606 is amended to read:

813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the person's employment, to operate a motor vehicle owned by the person's employer, the person may operate that vehicle without installation of an ignition interlock device if:

(1) The employer has been notified:

(a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604;

(b) That the employee is operating on a fully reinstated license within the first year following suspension or revocation for the employee's first conviction of driving while under the influence of intoxicants; [or]

(c) That the employee is operating on a fully reinstated license within the second year following suspension or revocation for the employee's second or subsequent conviction of driving while under the influence of intoxicants; [and] or

**(d) That the employee has driving privileges and is otherwise required to install an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement; and**

(2) The employee has proof of the notification [or] **and, if applicable, a fully reinstated license** in the possession of the employee while operating the employer's vehicle in the course of employment.

**SECTION 3. The amendments to ORS 813.602 and 813.606 by sections 1 and 2 of this 2013 Act apply to diversion agreements entered into before, on or after the effective date of this 2013 Act.**

Passed by House March 27, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 29, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State