

**A-Engrossed**  
**House Bill 2116**

Ordered by the House March 25  
Including House Amendments dated March 25

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.

Authorizes court to provide medical exemption to person otherwise required to install ignition interlock device as part of driving while under influence of intoxicants diversion agreement if person meets requirements established by Department of Transportation by rule.

Authorizes person otherwise required to have ignition interlock device as part of driving while under influence of intoxicants diversion agreement to operate motor vehicle without device if vehicle is owned by person's employer.

**A BILL FOR AN ACT**

1  
2 Relating to driving while under the influence of intoxicants diversion agreements; creating new  
3 provisions; and amending ORS 813.602 and 813.606.

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

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

7 813.602. (1) Except as provided in subsection (2) of this section, when a person is convicted of  
8 driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-  
9 nance, the Department of Transportation, in addition to any other requirement, shall require that  
10 the person install and use an approved ignition interlock device in any vehicle operated by the  
11 person:

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

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

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

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

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

3 (A) Any degree of murder.

4 (B) Manslaughter in the first or second degree.

5 (C) Criminally negligent homicide.

6 (D) Assault in the first degree.

7 (b) Aggravated vehicular homicide.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the  
23 person's employment, to operate a motor vehicle owned by the person's employer, the person may  
24 operate that vehicle without installation of an ignition interlock device if:

25 (1) The employer has been notified:

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

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

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

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

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

39 **SECTION 3. The amendments to ORS 813.602 and 813.606 by sections 1 and 2 of this 2013  
40 Act apply to diversion agreements entered into before, on or after the effective date of this  
41 2013 Act.**