

House Bill 2116

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 **as introduced**.

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:

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

28 (A) Any degree of murder.

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 (B) Manslaughter in the first or second degree.

2 (C) Criminally negligent homicide.

3 (D) Assault in the first degree.

4 (b) Aggravated vehicular homicide.

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

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

14 **(b) A court may exempt a person from the condition in a diversion agreement to install**
15 **and use an ignition interlock device if the court determines that the person meets the re-**
16 **quirements for a medical exemption in rules adopted by the department under this section.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the
18 person's employment, to operate a motor vehicle owned by the person's employer, the person may
19 operate that vehicle without installation of an ignition interlock device if:

20 (1) The employer has been notified:

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

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

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

28 **(d) That the employee is participating in a driving while under the influence of**
29 **intoxicants diversion agreement; and**

30 (2) The employee has proof of the notification or fully reinstated license in the possession of the
31 employee while operating the employer's vehicle in the course of employment.

32 **SECTION 3. The amendments to ORS 813.602 and 813.606 by sections 1 and 2 of this 2013**
33 **Act apply to offenses that occur before, on or after the effective date of this 2013 Act.**

34