

B-Engrossed
House Bill 2117

Ordered by the House July 1
Including House Amendments dated March 12 and July 1

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.

[Provides for certification of ignition interlock devices and certification of service centers that install ignition interlock devices. Requires service centers to notify agency or organization that conducted person's diagnostic assessment of any negative reports downloaded from ignition interlock device.]

[Establishes Ignition Interlock Device Management Fund. Continuously appropriates moneys in fund to Department of Transportation. Specifies uses of moneys.]

[Expands minimum requirements for ignition interlock devices.]

[Extends suspension of driving privileges beyond end of suspension or revocation period if person fails to submit proof of installation or maintain installation of required ignition interlock device.]

[Increases fees for screening interview and diagnostic assessment.]

Provides that implied consent law does not preclude police officer from obtaining chemical test of person's breath or blood through warrant or other lawful means for use in criminal or civil proceeding.

Permits police officer to request express consent of person in order to obtain chemical test of person's breath to determine amount of alcohol in person's blood.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS
3 813.100 and 813.140; and declaring an emergency.

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

5 **SECTION 1.** ORS 813.100 is amended to read:

6 813.100. (1) Any person who operates a motor vehicle upon premises open to the public or the
7 highways of this state shall be deemed to have given consent, subject to the implied consent law,
8 to a chemical test of the person's breath, or of the person's blood if the person is receiving medical
9 care in a health care facility immediately after a motor vehicle accident, for the purpose of deter-
10 mining the alcoholic content of the person's blood if the person is arrested for driving a motor ve-
11 hicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
12 ordinance. A test shall be administered upon the request of a police officer having reasonable
13 grounds to believe the person arrested to have been driving while under the influence of intoxicants
14 in violation of ORS 813.010 or of a municipal ordinance. Before the test is administered the person
15 requested to take the test shall be informed of consequences and rights as described under ORS
16 813.130.

17 (2) No chemical test of the person's breath or blood shall be given, under subsection (1) of this
18 section, to a person under arrest for driving a motor vehicle while under the influence of intoxicants
19 in violation of ORS 813.010 or of a municipal ordinance, if the person refuses the request of a police
20 officer to submit to the chemical test after the person has been informed of consequences and rights

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 as described under ORS 813.130.

2 (3) If a person refuses to take a test under this section or if a breath test under this section
3 discloses that the person, at the time of the test, had a level of alcohol in the person's blood that
4 constitutes being under the influence of intoxicating liquor under ORS 813.300, the person's driving
5 privileges are subject to suspension under ORS 813.410 and the police officer shall do all of the
6 following:

7 (a) Immediately take custody of any driver license or permit issued by this state to the person
8 to grant driving privileges.

9 (b) Provide the person with a written notice of intent to suspend, on forms prepared and pro-
10 vided by the Department of Transportation. The written notice shall inform the person of conse-
11 quences and rights as described under ORS 813.130.

12 (c) If the person qualifies under ORS 813.110, issue to the person, on behalf of the department,
13 a temporary driving permit described under ORS 813.110.

14 (d) Within a period of time required by the department by rule, report action taken under this
15 section to the department and prepare and cause to be delivered to the department a report as de-
16 scribed in ORS 813.120, along with the confiscated license or permit and a copy of the notice of in-
17 tent to suspend.

18 (4) If a blood test under this section discloses that the person, at the time of the test, had a level
19 of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor
20 under ORS 813.300, the person's driving privileges are subject to suspension under ORS 813.410 and
21 the police officer shall report to the department within 45 days of the date of arrest that the person
22 failed the blood test.

23 **(5) Nothing in this section precludes a police officer from obtaining a chemical test of the**
24 **person's breath or blood through any lawful means for use as evidence in a criminal or civil**
25 **proceeding including, but not limited to, obtaining a search warrant.**

26 **SECTION 2.** ORS 813.140 is amended to read:

27 813.140. Nothing in ORS 813.100 is intended to preclude the administration of a chemical test
28 described in this section. A police officer may obtain a chemical test of the **breath or** blood to de-
29 termine the amount of alcohol in any person's blood or a test of the person's blood or urine, or both,
30 to determine the presence of a controlled substance or an inhalant in the person as provided in the
31 following:

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

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

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

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

40 **SECTION 3. The amendments to ORS 813.100 and 813.140 by sections 1 and 2 of this 2013**
41 **Act apply to offenses that occur on or after the effective date of this 2013 Act.**

42 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
43 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
44 **on its passage.**