

House Bill 2117

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**.

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.

Requires provider of ignition interlock device to give notice to agency or organization that conducted person's screening interview or diagnostic assessment under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; and amending
3 ORS 813.021, 813.240 and 813.602.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 813.**

6 **SECTION 2. (1) When a person is required to install an ignition interlock device under**
7 **ORS 813.602 (1) or (2), the provider of the device shall give to the agency or organization that**
8 **conducted the person's screening interview under ORS 813.021 notice of any installation or**
9 **removal of the device, any tampering with the device or any warnings, lockouts or test vio-**
10 **lations recorded by the device.**

11 **(2) When a person is required to install an ignition interlock device under ORS 813.602**
12 **(3), the provider of the device shall give to the court that ordered the installation of the de-**
13 **vice notice of any installation or removal of the device, any tampering with the device or any**
14 **warnings, lockouts or test violations recorded by the device.**

15 **(3) If an agency or organization receives a notice under subsection (1) of this section that**
16 **a person has removed or tampered with the required device or that the device has recorded**
17 **warnings, lockouts or test violations, the agency or organization shall give notice to the**
18 **person's treatment program provider or, if the person is not in a treatment program, to the**
19 **court that ordered the installation of the device.**

20 **SECTION 3. ORS 813.021 is amended to read:**

21 813.021. (1) When a court, in accordance with ORS 813.020, requires a person to complete a
22 screening interview and a treatment program, the court shall require the person to do all of the
23 following:

24 (a) Complete a screening interview for the purpose of determining appropriate placement of the
25 person in a program for treatment for alcoholism, drug dependency or dependency on inhalants.

26 (b) Pay directly to the agency or organization conducting the screening interview a fee of
27 **[\$150] \$275.**

28 (c) Complete the treatment program to which the person is referred.

29 (d) Pay for the treatment program to which the person is referred.

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 (2) The screening interview required by this section shall be conducted by an agency or organ-
 2 ization designated by the court. The designated agency or organization must meet the standards set
 3 by the Director of the Oregon Health Authority to conduct the screening interviews. Wherever
 4 possible a court shall designate agencies or organizations to perform the screening interview that
 5 are separate from those that may be designated to carry out a treatment program.

6 (3) An agency or organization doing a screening interview under this section may not refer a
 7 person to a treatment program that has not been approved by the Director of the Oregon Health
 8 Authority.

9 (4) The agency or organization conducting a screening interview under this section shall moni-
 10 tor the progress of the person referred to the agency or organization. The agency or organization
 11 shall make a report to the referring court stating the person's successful completion or failure to
 12 complete all or any part of the screening interview or of the treatment program to which the person
 13 was referred by the agency or organization. The report shall be in a form determined by agreement
 14 between the court and the agency or organization.

15 **SECTION 4.** ORS 813.240, as amended by sections 167 and 186, chapter 595, Oregon Laws 2011,
 16 section 4, chapter 671, Oregon Laws 2011, and sections 4 and 5, chapter 81, Oregon Laws 2012, is
 17 amended to read:

18 813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while
 19 under the influence of intoxicants diversion agreement as provided in ORS 813.210 is \$490. A fee
 20 collected under this subsection in the circuit court shall be deposited by the clerk of the court in
 21 the Criminal Fine Account. If the fee is collected in a municipal or justice court, \$290 of the fee
 22 shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Ac-
 23 count, and the remainder of the fee shall be paid to the city or county treasurer.

24 (2) If less than the full filing fee is collected under subsection (1) of this section in a municipal
 25 or justice court, the money received shall be allocated first to the Department of Revenue for de-
 26 posit in the Criminal Fine Account.

27 (3) In addition to the filing fee under subsection (1) of this section, the court shall order the
 28 defendant to pay [~~\$150~~] **\$275** directly to the agency or organization providing the diagnostic assess-
 29 ment.

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

32 813.602. (1) Except as provided in subsection (2) of this section, when a person is convicted of
 33 driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-
 34 nance, the Department of Transportation, in addition to any other requirement, shall require that
 35 the person install and use an approved ignition interlock device in any vehicle operated by the
 36 person:

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

39 (b) For a first conviction, for one **full year, as defined by the department by rule**, after the
 40 ending date of the suspension or revocation caused by the conviction. **The department shall adopt**
 41 **by rule a procedure to ensure that the person maintains installation of the device for the**
 42 **required amount of time under this paragraph.** Violation of the condition imposed under this
 43 paragraph is a Class A traffic violation.

44 (c) For a second or subsequent conviction, for two **full years, as defined by the department**
 45 **by rule**, after the ending date of the suspension or revocation caused by the conviction. **The de-**

1 **partment shall adopt by rule a procedure to ensure that the person maintains installation**
 2 **of the device for the required amount of time under this paragraph.** Violation of the condition
 3 imposed under this paragraph is a Class A traffic violation.

4 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the
 5 department, in addition to any other requirement, shall require that the person install and use an
 6 approved ignition interlock device in any vehicle operated by the person for five **full years, as de-**
 7 **defined by the department by rule,** after the ending date of the longest running suspension or re-
 8 vocation caused by any of the convictions. **The department shall adopt by rule a procedure to**
 9 **ensure that the person maintains installation of the device for the required amount of time**
 10 **under this subsection.** Violation of the condition imposed under this subsection is a Class A traffic
 11 violation. A person is subject to this subsection when the person is convicted of:

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

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

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

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

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

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

36 **(b) The agency or organization that conducted the screening interview under ORS 813.021**
 37 **or the diagnostic assessment required under ORS 813.200 shall inform the person undergoing**
 38 **the interview or assessment of the possibility that the department may waive, in whole or**
 39 **in part, or defer the person's responsibility to pay all or part of the costs under subsection**
 40 **(4) of this section as described in paragraph (a) of this subsection.**

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

45 (7)(a) *[At the end of the suspension or revocation resulting from the conviction,]* The department

1 shall suspend *[the]* driving privileges or **the** right to apply for driving privileges *[of]* **if a person**
 2 **convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or**
 3 **of a municipal ordinance does not comply with the requirements of subsection (1) or (2) of**
 4 **this section. Suspension under this subsection applies to any of the following:**

5 (A) A person who *[has not submitted]*, **at the end of the suspension or revocation resulting**
 6 **from the conviction, fails to submit** proof to the department that an ignition interlock device has
 7 been installed *[or who tampers with an ignition interlock device after it has been installed]*. **The**
 8 **suspension under this subsection for failure to submit proof of installation shall continue**
 9 **until the department receives proof that the ignition interlock device has been installed.**

10 *[(8)]* (B) *[If the department imposes a suspension under subsection (7) of this section for failing to*
 11 *submit proof of installation, the suspension continues]* **A person who fails to maintain installation**
 12 **of an ignition interlock device for the period required in subsection (1) or (2) of this section.**
 13 **The suspension under this subsection for failure to maintain installation of an ignition**
 14 **interlock device shall continue** until the department receives proof that the ignition interlock de-
 15 vice has been *[installed]* **reinstalled. The person shall make up each day the device is not in-**
 16 **stalled to meet the required amount of time for installation under subsection (1) or (2) of this**
 17 **section. [If the department does not receive proof that the ignition interlock device has been installed,**
 18 **the suspension shall continue for:]**

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

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

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

24 *[(9)]* (C) *[If]* **A person who tampers with an ignition interlock device after it has been in-**
 25 **stalled.** The *[department imposes a]* suspension under **this** subsection *[(7) of this section]* for
 26 tampering with an ignition interlock device **shall be for _____ months.***[, the suspension continues*
 27 *until:]*

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

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

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

33 *[(10)]* (b) A person whose driving privileges or right to apply for **driving** privileges is suspended
 34 under **this** subsection *[(7) of this section]* is entitled to administrative review, as described in ORS
 35 809.440, of the action.

36 *[(11)]* (8) The department shall adopt rules permitting medical exemptions from the requirements
 37 of installation and use of an ignition interlock device under subsections (1) and (2) of this section.

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

43 **SECTION 6. The amendments to ORS 813.602 by section 5 of this 2013 Act apply to con-**
 44 **victions that occur on or after the effective date of this 2013 Act.**