

House Bill 2773

Sponsored by COMMITTEE ON JUDICIARY

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**.

Permits person to enter into driving while under influence of intoxicants diversion agreement even if person has already entered treatment following charge of minor in possession of alcoholic beverage or charge of possession of less than one ounce of marijuana.

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 813.215.

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

5 **SECTION 1.** ORS 813.215 is amended to read:

6 813.215. (1) A defendant is eligible for diversion if the defendant meets all of the following con-
7 ditions:

8 (a) On the date the defendant filed the petition for a driving while under the influence of
9 intoxicants diversion agreement, the defendant had no charge, other than the charge for the present
10 offense, pending for:

11 (A) An offense of driving while under the influence of intoxicants in violation of:

12 (i) ORS 813.010; or

13 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction;

14 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
15 impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an
16 inhalant or any combination thereof; or

17 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
18 blood alcohol content above that jurisdiction's permissible blood alcohol content.

19 (b) The defendant has not been convicted of an offense described in paragraph (a) of this sub-
20 section within the period beginning 15 years before the date of the commission of the present offense
21 and ending on the date the defendant filed the petition for a driving while under the influence of
22 intoxicants diversion agreement.

23 (c) The defendant has not been convicted of a felony offense described in ORS 813.010 (5)(a).

24 (d) The defendant was not participating in a driving while under the influence of intoxicants
25 diversion program or in any similar alcohol or drug rehabilitation program[, *other than a program*
26 *entered into as a result of the charge for the present offense,*] in this state or in another jurisdiction
27 on the date the defendant filed the petition for a driving while under the influence of intoxicants
28 diversion agreement. **A defendant is not ineligible for diversion under this paragraph by reason**
29 **of participation in a diversion program or any similar alcohol or drug rehabilitation program**
30 **as a result of the charge for the present offense, a charge for violation of ORS 471.430 or a**
31 **charge for violation of ORS 475.864 (3).**

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 (e) The defendant did not participate in a diversion or rehabilitation program described in par-
 2 agraph (d) of this subsection[, *other than a program entered into as a result of the charge for the*
 3 *present offense,*] within the period beginning 15 years before the date of the commission of the
 4 present offense and ending on the date the defendant filed the petition for a driving while under the
 5 influence of intoxicants diversion agreement. **A defendant is not ineligible for diversion under**
 6 **this paragraph by reason of participation in a diversion program or rehabilitation program**
 7 **described in paragraph (d) of this subsection as a result of the charge for the present offense,**
 8 **a charge for violation of ORS 471.430 or a charge for violation of ORS 475.864 (3).**

9 (f) The defendant had no charge of an offense of aggravated vehicular homicide or of murder,
 10 manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor
 11 vehicle pending in this state or in another jurisdiction on the date the defendant filed the petition
 12 for a driving while under the influence of intoxicants diversion agreement.

13 (g) The defendant has not been convicted of an offense described in paragraph (f) of this sub-
 14 section within the period beginning 15 years before the date of the commission of the present offense
 15 and ending on the date the defendant filed the petition for a driving while under the influence of
 16 intoxicants diversion agreement.

17 (h) The defendant did not hold a commercial driver license on the date of the commission of the
 18 offense.

19 (i) The defendant was not operating a commercial motor vehicle at the time of the offense.

20 (j) The present driving while under the influence of intoxicants offense did not involve an acci-
 21 dent resulting in:

22 (A) Death of any person; or

23 (B) Physical injury as defined in ORS 161.015 to any person other than the defendant.

24 (2) For the purposes of subsection (1)(a) of this section, a conviction for a driving offense in
 25 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
 26 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
 27 of age or older does not constitute a prior conviction.

28 (3) A defendant is eligible for a second or subsequent diversion if the defendant meets all of the
 29 conditions of subsection (1) of this section and the defendant has not been convicted of any other
 30 criminal offense involving a motor vehicle within the period beginning 15 years before the date of
 31 the commission of the present offense and ending on the date the defendant filed the petition for the
 32 second or subsequent driving while under the influence of intoxicants diversion agreement.

33 **SECTION 2. The amendments to ORS 813.215 by section 1 of this 2013 Act apply to pe-**
 34 **titions for a driving while under the influence of intoxicants diversion agreement filed on or**
 35 **after the effective date of this 2013 Act.**