

House Bill 3176

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**.

Shortens time person must wait before petitioning court or applying to Department of Transportation to restore revoked driving privileges.

A BILL FOR AN ACT

Relating to driving privileges; creating new provisions; and amending ORS 809.235 and 809.409.

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

SECTION 1. ORS 809.235 is amended to read:

809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in the first or second degree resulting from the operation of a motor vehicle, criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle.

(b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010 or if the person is convicted for a third or subsequent time of any of the following offenses in any combination:

(A) Driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

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

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

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

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

(2)(a) A person whose driving privileges are revoked as described in subsection (1) of this section may file a petition in the circuit court of the county in which the person's driving privileges were revoked for an order restoring the person's driving privileges. A petition may be filed under this subsection no sooner than [10] **five** years after the person is:

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) Released on parole or post-prison supervision for the crime for which the person's driving
2 privileges were revoked and any other crimes arising out of the same criminal episode;

3 (B) Sentenced to probation for the crime for which the person's driving privileges were revoked,
4 unless the probation is revoked, in which case the petition may be filed no sooner than [10] **five**
5 years after the date probation is revoked; or

6 (C) Sentenced for the crime for which the person's driving privileges were revoked, if no other
7 provision of this paragraph applies.

8 (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the
9 crime for which the person was convicted the person is convicted of a criminal offense involving a
10 motor vehicle, the person may file a petition to restore driving privileges as described in paragraph
11 (a) of this subsection no sooner than [10] **five** years from the date of the most recent conviction
12 involving a motor vehicle.

13 (c) The district attorney of the county in which the person's driving privileges were revoked
14 shall be named and served as the respondent in the petition.

15 (3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this
16 section. In determining whether to grant the petition, the court shall consider:

17 (a) The nature of the offense for which driving privileges were revoked.

18 (b) The degree of violence involved in the offense.

19 (c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
20 conviction that resulted in the revocation.

21 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
22 chological evaluation ordered by the court to determine whether the person is presently a threat to
23 the safety of the public.

24 (e) Any other relevant factors.

25 (4) The court shall order a petitioner's driving privileges restored if, after a hearing described
26 in subsection (3) of this section, the court finds by clear and convincing evidence that the petitioner:

27 (a) Is rehabilitated;

28 (b) Does not pose a threat to the safety of the public; and

29 (c) If the sentence for the crime for which the petitioner's driving privileges were revoked re-
30 quired the petitioner to complete an alcohol or drug treatment program, has completed an alcohol
31 or drug treatment program in a facility approved by the Director of the Oregon Health Authority
32 or a similar program in another jurisdiction.

33 (5) Upon receiving a court order to restore a person's driving privileges, the department may
34 reinstate driving privileges in accordance with ORS 809.390, except that the department may not
35 reinstate driving privileges of any person whose privileges are revoked under this section until the
36 person complies with future responsibility filings.

37 **SECTION 2.** ORS 809.409 is amended to read:

38 809.409. (1)(a) Upon receipt of a record of conviction of an offense described in this section, the
39 Department of Transportation shall revoke the driving privileges of the person convicted.

40 (b) A person is entitled to administrative review under ORS 809.440 of a revocation under this
41 section.

42 (c) Except as otherwise provided in subsections (2) and (3) of this section, the revocation shall
43 be for a period of one year from the date of revocation, except that the department may not rein-
44 state driving privileges of any person whose privileges are revoked under this section until the
45 person complies with future responsibility filings.

1 (2) The department shall take action under subsection (1) of this section upon receipt of a record
2 of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked
3 or any degree of murder, manslaughter or criminally negligent homicide resulting from the operation
4 of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle,
5 except that the provisions of this subsection do not apply to a person whose driving privileges are
6 ordered revoked under ORS 809.235. A person whose driving privileges are revoked under this sub-
7 section may apply for reinstatement of driving privileges:

8 (a) If the sentence for the crime for which the person's driving privileges were revoked, or any
9 other crimes arising from the same criminal episode, includes incarceration, no sooner than [10] **five**
10 years from the date the person is released from incarceration for all crimes arising out of the same
11 criminal episode; or

12 (b) If the sentence for the crime for which the person's driving privileges were revoked and any
13 other crimes arising from the same criminal episode does not include incarceration, no sooner than
14 [10] **five** years from the date the department revoked the privileges under this subsection.

15 (3) The department shall take action under subsection (1) of this section upon receipt of a record
16 of conviction of failure to perform the duties of a driver to injured persons under ORS 811.705. The
17 department shall revoke driving privileges under this subsection for a period of five years if the
18 court indicates on the record of conviction that a person was killed as a result of the accident. The
19 person may apply for reinstatement of privileges five years after the date the person was released
20 from incarceration, if the sentence includes incarceration. If the sentence does not include
21 incarceration, the person may apply for reinstatement five years from the date the revocation was
22 imposed under this subsection.

23 (4) The department shall take action under subsection (1) of this section upon receipt of a record
24 of conviction of perjury or the making of a false affidavit to the department under any law of this
25 state requiring the registration of vehicles or regulating their operation on the highways.

26 (5) The department shall take action under subsection (1) of this section upon receipt of a record
27 of conviction of any felony with a material element involving the operation of a motor vehicle.

28 **SECTION 3. The amendments to ORS 809.235 and 809.409 by sections 1 and 2 of this 2013**
29 **Act apply to revocations of driving privileges that occur before, on or after the effective date**
30 **of this 2013 Act.**