

**PROPOSED AMENDMENTS TO
HOUSE BILL 2117**

1 On page 1 of the printed bill, line 3, delete “and 813.602” and insert “,
2 813.600, 813.602, 813.604 and 813.608”.

3 Delete lines 5 through 29 and delete pages 2 through 4 and insert:

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

6 **“SECTION 2. (1) After an ignition interlock device is installed as
7 required under ORS 813.602 (3), a service center or an ignition inter-
8 lock device technician shall notify the agency or organization that
9 conducted the person’s diagnostic assessment under ORS 813.200. No-
10 tice of the installation must be given within two business days of in-
11 stalling the ignition interlock device.**

12 **“(2) After installation of the device, the person required to have the
13 device installed under ORS 813.602 (3) shall bring the device to the
14 service center where the device was installed once every 45 days. The
15 service center shall download all reports recorded on the device.**

16 **“(3) In addition to the reports downloaded under subsection (2) of
17 this section, each time the service center has access to an ignition
18 interlock device that the service center installed, the service center
19 shall download all reports recorded on the ignition interlock device.
20 If the service center downloads a negative report, the service center
21 shall notify the agency or organization that conducted the person’s
22 diagnostic assessment. The service center must give notice of the**

1 **negative report within two business days of downloading the negative**
2 **report.**

3 **“(4) If an agency or organization receives a notice under subsection**
4 **(3) of this section of a negative report, the agency or organization shall**
5 **give notice:**

6 **“(a) To the person’s treatment program provider, if any, and to the**
7 **district attorney or city attorney; or**

8 **“(b) If the person is not in a treatment program, to the court that**
9 **ordered the installation of the device and to the district attorney or**
10 **city attorney.**

11 **“(5) An agency or organization shall give notice as provided under**
12 **subsection (4) of this section within two business days of receiving**
13 **notice of the negative report under subsection (3) of this section.**

14 **“(6) As used in this section:**

15 **“(a) ‘Ignition interlock device technician’ means an individual is-**
16 **sued a certificate of approval under section 6 of this 2013 Act.**

17 **“(b) ‘Negative report’ includes a report of tampering with the ig-**
18 **nitiation interlock device, unauthorized removal of the ignition interlock**
19 **device, warnings, lockouts or test violations recorded by the ignition**
20 **interlock device.**

21 **“(c) ‘Service center’ means a service center issued a certificate of**
22 **approval under section 5 of this 2013 Act.**

23 **“SECTION 3. Sections 4 to 6 of this 2013 Act are added to and made**
24 **a part of the Oregon Vehicle Code.**

25 **“SECTION 4. (1) A manufacturer of ignition interlock devices may**
26 **provide ignition interlock devices for use by persons required to have**
27 **the devices installed under ORS 813.602 only if the devices have been**
28 **issued a certificate of approval by the Department of Transportation.**

29 **“(2) A manufacturer of ignition interlock devices may apply to the**
30 **department for certification of an ignition interlock device under this**

1 section. The application shall be in such form as may be specified by
2 the department.

3 “(3) The department may issue or renew a certificate of approval
4 for an ignition interlock device if:

5 “(a) The ignition interlock device meets all of the requirements
6 described in ORS 813.600 and the rules of the department;

7 “(b) The manufacturer submits at least two devices for field and
8 laboratory testing;

9 “(c) The manufacturer agrees to provide testimony relating to any
10 aspect of the installation, service, repair, calibration, use, removal or
11 performance of the ignition interlock device or report at any criminal
12 proceeding or administrative hearing; and

13 “(d) The manufacturer pays the application fee.

14 “(4) The department may adopt rules establishing additional re-
15 quirements for issuance and renewal of certificates under this section.

16 “(5) The department may refuse to issue or renew or may suspend
17 or revoke any certificate issued under this section in any case where
18 the department finds that the applicant or certificate holder has vio-
19 lated or failed to comply with any rules adopted under this section.

20 “(6) The department by rule shall establish fees for application for
21 and issuance and renewal of certificates under this section.

22 “(7) Certificates issued under this section are subject to the follow-
23 ing:

24 “(a) A certificate shall expire three years from the date of issuance
25 unless renewed according to the rules of the department.

26 “(b) The department may not issue or renew a certificate to a
27 manufacturer until the fee for issuance or renewal of the certificate
28 under this section is paid.

29 “(c) A fee for a certificate may not be refunded in the event any
30 certificate is refused, suspended or revoked.

1 **“SECTION 5. (1) A service center may install, service, repair,**
2 **monitor, calibrate or remove ignition interlock devices for use by**
3 **persons required to have the devices installed under ORS 813.602 only**
4 **if the service center has been issued a certificate of approval by the**
5 **Department of Transportation.**

6 **“(2) A service center may apply to the department for certification**
7 **under this section. The application shall be in such form as may be**
8 **specified by the department.**

9 **“(3) The department may issue a certificate of approval to a service**
10 **center if the service center:**

11 **“(a) Meets all of the requirements established by the department**
12 **by rule;**

13 **“(b) Agrees to provide testimony relating to any aspect of the in-**
14 **stallation, service, repair, calibration, use, removal or performance of**
15 **the ignition interlock device at any criminal proceeding or adminis-**
16 **trative hearing; and**

17 **“(c) Pays all required fees.**

18 **“(4) The department may adopt rules establishing additional re-**
19 **quirements for issuance and renewal of certificates under this section.**

20 **“(5) The department may refuse to issue or renew or may suspend**
21 **or revoke any certificate issued under this section in any case where**
22 **the department finds that the applicant or certificate holder has vio-**
23 **lated or failed to comply with any rules adopted under this section.**

24 **“(6) The department by rule shall establish fees for applications for**
25 **and issuance and renewal of certificates under this section.**

26 **“(7) Certificates issued under this section are subject to the follow-**
27 **ing:**

28 **“(a) A certificate shall expire three years from the date of issuance**
29 **unless renewed according to the rules of the department.**

30 **“(b) The department may not issue or renew a certificate to a ser-**

1 vice center until the fee for issuance or renewal of the certificate un-
2 der this section is paid.

3 “(c) A fee for a certificate may not be refunded in the event any
4 certificate is refused, suspended or revoked.

5 **“SECTION 6. (1) An individual may install, service, repair, monitor,
6 calibrate or remove ignition interlock devices as an ignition interlock
7 device technician only if the individual has been issued a certificate
8 of approval by the Department of Transportation.**

9 **“(2) An individual may apply to the department for certification
10 under this section. The application shall be in such form as may be
11 specified by the department.**

12 **“(3) The department may issue a certificate of approval to an indi-
13 vidual if the individual:**

14 **“(a) Meets all requirements established by the department by rule;**

15 **“(b) Agrees to provide testimony relating to any aspect of the in-
16 stallation, service, repair, calibration, use, removal or performance of
17 the ignition interlock device at any criminal proceeding or adminis-
18 trative hearing;**

19 **“(c) Completes a criminal background check; and**

20 **“(d) Pays all required fees.**

21 **“(4) The department may adopt rules establishing additional re-
22 quirements for issuance and renewal of certificates under this section.**

23 **“(5) The department may refuse to issue or renew or may suspend
24 or revoke any certificate issued under this section in any case where
25 the department finds that the applicant or certificate holder has vio-
26 lated or failed to comply with any rules adopted under this section.**

27 **“(6) The department by rule shall establish fees for application for
28 and issuance and renewal of certificates under this section.**

29 **“(7) Certificates issued under this section are subject to the follow-
30 ing:**

1 “(a) A certificate shall expire three years from the date of issuance
2 unless renewed according to the rules of the department.

3 “(b) The department may not issue or renew a certificate to an in-
4 dividual until the fee for issuance or renewal of the certificate under
5 this section is paid.

6 “(c) A fee for a certificate may not be refunded in the event any
7 certificate is refused, suspended or revoked.

8 “SECTION 7. ORS 813.021 is amended to read:

9 “813.021. (1) When a court, in accordance with ORS 813.020, requires a
10 person to complete a screening interview and a treatment program, the court
11 shall require the person to do all of the following:

12 “(a) Complete a screening interview for the purpose of determining ap-
13 propriate placement of the person in a program for treatment for alcoholism,
14 drug dependency or dependency on inhalants.

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

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

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

19 “(2) The screening interview required by this section shall be conducted
20 by an agency or organization designated by the court. The designated
21 agency or organization must meet the standards set by the Director of the
22 Oregon Health Authority to conduct the screening interviews. Wherever
23 possible a court shall designate agencies or organizations to perform the
24 screening interview that are separate from those that may be designated to
25 carry out a treatment program.

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

29 “(4) The agency or organization conducting a screening interview under
30 this section shall monitor the progress of the person referred to the agency

1 or organization. The agency or organization shall make a report to the re-
2 ferring court stating the person's successful completion or failure to com-
3 plete all or any part of the screening interview or of the treatment program
4 to which the person was referred by the agency or organization. The report
5 shall be in a form determined by agreement between the court and the
6 agency or organization.

7 **“SECTION 8.** ORS 813.240, as amended by sections 167 and 186, chapter
8 595, Oregon Laws 2011, section 4, chapter 671, Oregon Laws 2011, and
9 sections 4 and 5, chapter 81, Oregon Laws 2012, is amended to read:

10 “813.240. (1) The filing fee paid by a defendant at the time of filing a pe-
11 tition for a driving while under the influence of intoxicants diversion
12 agreement as provided in ORS 813.210 is \$490. A fee collected under this
13 subsection in the circuit court shall be deposited by the clerk of the court
14 in the Criminal Fine Account. If the fee is collected in a municipal or justice
15 court, \$290 of the fee shall be forwarded by the court to the Department of
16 Revenue for deposit in the Criminal Fine Account, and the remainder of the
17 fee shall be paid to the city or county treasurer.

18 “(2) If less than the full filing fee is collected under subsection (1) of this
19 section in a municipal or justice court, the money received shall be allocated
20 first to the Department of Revenue for deposit in the Criminal Fine Account.

21 “(3) In addition to the filing fee under subsection (1) of this section, the
22 court shall order the defendant to pay [~~\$150~~] **\$275** directly to the agency or
23 organization providing the diagnostic assessment.

24 **“SECTION 9.** ORS 813.602, as amended by section 1, chapter 66, Oregon
25 Laws 2012, is amended to read:

26 “813.602. (1) Except as provided in subsection (2) of this section, when a
27 person is convicted of driving while under the influence of intoxicants in
28 violation of ORS 813.010 or of a municipal ordinance, the Department of
29 Transportation, in addition to any other requirement, shall require that the
30 person [*install*] **have installed** and use an approved ignition interlock device

1 in any vehicle operated by the person:

2 “(a) Before the person is eligible for a hardship permit. The requirement
3 is a condition of the hardship permit for the duration of the hardship permit.

4 “(b) For a first conviction, for one year after [*the ending date of*] the
5 suspension or revocation caused by the conviction **ends, starting on the**
6 **date on which an ignition interlock device is installed.** Violation of the
7 condition imposed under this paragraph is a Class A traffic violation.

8 “(c) For a second or subsequent conviction, for two years after [*the ending*
9 *date of*] the suspension or revocation caused by the conviction **ends, start-**
10 **ing on the date on which an ignition interlock device is installed.** Vio-
11 lation of the condition imposed under this paragraph is a Class A traffic
12 violation.

13 “(2) When a person is convicted of a crime or multiple crimes as described
14 in this subsection, the department, in addition to any other requirement,
15 shall require that the person [*install*] **have installed** and use an approved
16 ignition interlock device in any vehicle operated by the person for five years
17 after [*the ending date of*] the longest running suspension or revocation
18 caused by any of the convictions **ends, starting on the date on which an**
19 **ignition interlock device is installed.** Violation of the condition imposed
20 under this subsection is a Class A traffic violation. A person is subject to
21 this subsection when the person is convicted of:

22 “(a) Driving while under the influence of intoxicants in violation of ORS
23 813.010 or of a municipal ordinance and any of the following crimes as part
24 of the same criminal episode:

25 “(A) Any degree of murder.

26 “(B) Manslaughter in the first or second degree.

27 “(C) Criminally negligent homicide.

28 “(D) Assault in the first degree.

29 “(b) Aggravated vehicular homicide.

30 “(c) Driving while under the influence of intoxicants in violation of ORS

1 813.010 or of a municipal ordinance and the person's driving privileges are
2 revoked under ORS 809.235 (1)(b) and later ordered restored under ORS
3 809.235 (4).

4 “(3) The court shall require as a condition of a driving while under the
5 influence of intoxicants diversion agreement that an approved ignition
6 interlock device be installed in any vehicle operated by the person during
7 the period of the agreement when the person has driving privileges. In ad-
8 dition to any action taken under ORS 813.255, violation of the condition
9 imposed under this subsection is a Class A traffic violation.

10 “(4) Except as provided in subsection (5) of this section, if an ignition
11 interlock system is ordered or required under subsection (1), (2) or (3) of this
12 section, the person so ordered or required shall pay to the provider the rea-
13 sonable costs of leasing, installing and maintaining the device. A payment
14 schedule may be established for the person by the department.

15 “(5)(a) The department may waive, in whole or in part, or defer the
16 defendant's responsibility to pay all or part of the costs under subsection (4)
17 of this section if the defendant meets the criteria for indigence established
18 for waiving or deferring such costs under subsection (6) of this section. If the
19 defendant's responsibility for costs is waived, then notwithstanding ORS
20 813.270, the costs described in subsection (4) of this section must be paid from
21 the Intoxicated Driver Program Fund.

22 “(b) **The agency or organization that conducted the screening**
23 **interview under ORS 813.021 or the diagnostic assessment required**
24 **under ORS 813.200 shall inform the person undergoing the interview**
25 **or assessment of the possibility that the department may waive, in**
26 **whole or in part, or defer the person's responsibility to pay all or part**
27 **of the costs under subsection (4) of this section as described in para-**
28 **graph (a) of this subsection.**

29 “(6) The department, by rule, shall establish criteria and procedures it
30 will use for qualification to waive or defer costs described under subsection

1 (4) of this section for indigence. The criteria must be consistent with the
2 standards for indigence adopted by the federal government for purposes of
3 the Supplemental Nutrition Assistance Program.

4 “(7)(a) *[At the end of the suspension or revocation resulting from the con-*
5 *viction,]* The department shall suspend *[the]* driving privileges or **the right**
6 to apply for driving privileges *[of]* **if a person convicted of driving while**
7 **under the influence of intoxicants in violation of ORS 813.010 or of a**
8 **municipal ordinance does not comply with the requirements of sub-**
9 **section (1) or (2) of this section. Suspension under this subsection ap-**
10 **plies to any of the following:**

11 “(A) A person who *[has not submitted]*, **at the end of the suspension**
12 **or revocation resulting from the conviction, fails to submit** proof to the
13 department that an ignition interlock device has been installed *[or who*
14 *tampers with an ignition interlock device after it has been installed]*. **The**
15 **suspension under this subsection for failure to submit proof of instal-**
16 **lation shall continue until the department receives proof that the ig-**
17 **nitiation interlock device has been installed.**

18 “[8] (B) *[If the department imposes a suspension under subsection (7) of*
19 *this section for failing to submit proof of installation, the suspension*
20 *continues]* **A person who fails to maintain installation of an ignition**
21 **interlock device for the period required in subsection (1) or (2) of this**
22 **section. The suspension under this subsection for failure to maintain**
23 **installation of an ignition interlock device shall continue** until the de-
24 partment receives proof that the ignition interlock device has been installed
25 **or until the device is no longer required, whichever occurs first.** *[If the*
26 *department does not receive proof that the ignition interlock device has been*
27 *installed, the suspension shall continue for:]*

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

30 “[b) *Except as provided in paragraph (c) of this subsection, two years after*

1 *the ending date of the suspension resulting from a second or subsequent con-*
2 *viction; or]*

3 *“[(c) Five years after the ending date of the longest running suspension or*
4 *revocation resulting from a conviction described in subsection (2) of this sec-*
5 *tion.]*

6 *“[(9)] (C) [If] A person who tampers with an ignition interlock device*
7 **after it has been installed.** The [*department imposes a*] suspension under
8 **this** subsection [(7) of this section] for tampering with an ignition interlock
9 device **shall be for 90 days or until the device is no longer required,**
10 **whichever occurs first.**[, *the suspension continues until:*]

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

13 *“[(b) Except as provided in paragraph (c) of this subsection, two years after*
14 *the ending date of the suspension resulting from a second or subsequent con-*
15 *viction; or]*

16 *“[(c) Five years after the ending date of the longest running suspension or*
17 *revocation resulting from a conviction described in subsection (2) of this sec-*
18 *tion.]*

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

22 *“[(11)] (8) The department shall adopt rules permitting medical ex-*
23 *emptions from the requirements of installation and use of an ignition inter-*
24 *lock device under subsections (1) and (2) of this section.*

25 *“[(12) When a person is required to install an ignition interlock device*
26 *under subsection (2) or (3) of this section, the provider of the device shall*
27 *provide notice of any installation or removal of the device or any tampering*
28 *with the device to the court that ordered installation of the device or to the*
29 *court’s designee, including but not limited to an agency or organization certi-*
30 *fied by the Oregon Health Authority under ORS 813.025.]*

1 **“SECTION 10.** ORS 813.600 is amended to read:

2 “813.600. (1) The Department of Transportation, in consultation with the
3 Transportation Safety Committee, shall establish a program for the use of
4 ignition interlock devices by persons convicted of driving while under the
5 influence of intoxicants and granted hardship permits under ORS 807.240 and
6 by persons who have entered into a driving while under the influence of
7 intoxicants diversion agreement.

8 “(2) The department shall adopt rules that specify requirements for ig-
9 nition interlock devices **and for testing the devices** that may be used and
10 shall publish a list of devices that meet the requirements. The [*list may in-*
11 *clude devices that*] **devices must:**

12 “(a) [*Do*] Not impede the safe operation of the vehicle;

13 “(b) Have the fewest opportunities to be bypassed;

14 “(c) Correlate well with established measures of alcohol impairment;

15 “(d) Work accurately and reliably in an unsupervised environment;

16 “(e) Require a deep lung breath sample or other accurate measure of blood
17 alcohol content equivalence;

18 “(f) Resist tampering and give evidence if tampering is attempted;

19 “(g) [*Are difficult to circumvent, and require premeditation to do so*] **Con-**
20 **tain anticircumvention features;**

21 “(h) Minimize inconvenience to a sober user;

22 “(i) Operate reliably over the range of automobile environments or auto-
23 mobile manufacturing standards;

24 “(j) [*Are*] **Be** manufactured by a party who is adequately insured for
25 product liability; [*and*]

26 “(k) Have a label affixed in a prominent location warning that any person
27 tampering with, **attempting to disconnect**, circumventing or otherwise
28 misusing the device is subject to [*civil*] penalty;

29 “(L) **Use electrochemical fuel cell sensor technology;**

30 “(m) **Photograph the user giving the breath sample and record the**

1 **date and the time that the breath sample was given;**

2 **“(n) Have been tested in a lab certified by the Department of**
3 **Transportation; and**

4 **“(o) Be preset by the manufacturer to prevent the vehicle from**
5 **starting if the breath sample given indicates a blood alcohol content**
6 **of 0.025 percent or more by weight of alcohol in the blood based upon**
7 **grams of alcohol per 210 liters of breath.**

8 **“SECTION 11. The amendments to ORS 813.600 and 813.602 by**
9 **sections 9 and 10 of this 2013 Act apply to convictions that occur on**
10 **or after the effective date of this 2013 Act.**

11 **“SECTION 12. ORS 813.604 is amended to read:**

12 **“813.604. (1) When a court orders installation of an ignition interlock**
13 **device pursuant to ORS 813.602, the court shall send a copy of the order to**
14 **the Department of Transportation. The department shall note the require-**
15 **ment on the driving record of the person required to [*install*] **have** the device**
16 **installed.**

17 **“(2) The department may not issue a hardship permit under ORS 807.240**
18 **to any person who is ordered to [*install*] **have** an ignition interlock device**
19 **installed on the person’s vehicle until the person furnishes the department**
20 **satisfactory proof that the device has been installed on any vehicle owned**
21 **or operated by the person. The department shall determine by rule what**
22 **constitutes satisfactory proof under this subsection.**

23 **“(3) When the department issues a hardship permit to a person who is**
24 **required to have an ignition interlock device, the department shall note on**
25 **the permit that the device is required. The notation constitutes a limitation**
26 **on the permit and a person who violates the limitation is punishable as**
27 **provided in ORS 811.182 for criminal driving while suspended or revoked.**

28 **“SECTION 13. ORS 813.608 is amended to read:**

29 **“813.608. (1) A person commits the offense of knowingly furnishing a mo-**
30 **tor vehicle without an ignition interlock device to someone who is not au-**

1 thORIZED to drive such a vehicle if the person rents, leases, lends or otherwise
2 furnishes a motor vehicle to someone the person knows to have been ordered
3 or required under ORS 813.602, to [*install*] **have** an ignition interlock device
4 **installed**, and the motor vehicle is not equipped with such a device that is
5 in working order.

6 “(2) The offense described in this section, knowingly furnishing a motor
7 vehicle without an ignition interlock device to someone who is not author-
8 ized to drive such a vehicle, is a Class A traffic violation.”.

9
