

**PROPOSED AMENDMENTS TO
HOUSE BILL 2115**

1 On page 1 of the printed bill, line 3, delete “421.121,” and “813.012,”.

2 Delete lines 6 through 29 and delete pages 2 through 15 and insert:

3 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part**
4 **of the Oregon Vehicle Code.**

5 **“SECTION 2. ‘Intoxicant’ means:**

6 **“(1) Intoxicating liquor;**

7 **“(2) Controlled substances;**

8 **“(3) Inhalants; or**

9 **“(4) Any of the following drugs:**

10 **“(a) Amitriptyline.**

11 **“(b) Cyclobenzaprine.**

12 **“(c) Diphenhydramine.**

13 **“(d) Dextromethorphan.**

14 **“(e) Tramadol.**

15 **“SECTION 3. Section 2 of this 2013 Act is repealed on January 2,**
16 **2016.**

17 **“SECTION 4. ORS 801.272 is amended to read:**

18 **“801.272. ‘Field sobriety test’ means a physical or mental test, approved**
19 **by the Department of State Police by rule after consultation with the De-**
20 **partment of Public Safety Standards and Training, that enables a police of-**
21 **ficer or trier of fact to screen for or detect probable impairment from**
22 ***[intoxicating liquor, a controlled substance, an inhalant or any combination***

1 *of intoxicating liquor, an inhalant and a controlled substance]* **an intoxicant**
2 **or a combination of intoxicants.**

3 **“SECTION 5.** ORS 801.272, as amended by section 4 of this 2013 Act, is
4 amended to read:

5 “801.272. ‘Field sobriety test’ means a physical or mental test, approved
6 by the Department of State Police by rule after consultation with the De-
7 partment of Public Safety Standards and Training, that enables a police of-
8 ficer or trier of fact to screen for or detect probable impairment from [*an*
9 *intoxicant or a combination of intoxicants]* **intoxicating liquor, a controlled**
10 **substance, an inhalant or any combination of intoxicating liquor, an**
11 **inhalant and a controlled substance.**

12 **“SECTION 6.** The amendments to ORS 801.272 by section 5 of this
13 **2013 Act become operative on January 2, 2016.**

14 **“SECTION 7.** ORS 807.060, as amended by section 4, chapter 9, Oregon
15 Laws 2012, is amended to read:

16 “807.060. The Department of Transportation may not grant driving privi-
17 leges to a person under a license if the person is not eligible under this
18 section. The following are not eligible for a license:

19 “(1) A person under 16 years of age.

20 “(2)(a) A person under 18 years of age who is not an emancipated minor
21 unless the application of the person is signed by the person’s mother, father
22 or legal guardian. A person who signs an application under this paragraph
23 may have the driving privileges canceled as provided under ORS 809.320.

24 “(b) A person under 18 years of age who does not meet the requirements
25 of ORS 807.065.

26 “(3) Notwithstanding subsection (2) of this section, a person under 18
27 years of age is not eligible for a commercial driver license.

28 “(4) A person that the department determines has a problem condition
29 involving [*alcohol, inhalants or controlled substances]* **intoxicants** as de-
30 scribed under ORS 813.040.

1 “(5) A person the department reasonably believes has a mental or physical
2 condition or impairment that affects the person’s ability to safely operate a
3 motor vehicle upon the highways.

4 “(6) A person the department reasonably believes is unable to understand
5 highway signs that warn, regulate or direct traffic.

6 “(7) A person who is required to make future responsibility filings but
7 has not made filings as required.

8 “(8) A person who cannot be issued a license under the Driver License
9 Compact under ORS 802.540.

10 “(9) A person who is not subject to the Driver License Compact under
11 ORS 802.540 but whose driving privileges are currently under suspension or
12 revocation in any other state upon grounds which, if committed in this state,
13 would be grounds for the suspension or revocation of the driving privileges
14 of the person.

15 “(10) A person who has been declared a habitual offender under ORS
16 809.640. A person declared not eligible to be licensed under this subsection
17 may become eligible by having eligibility restored under ORS 809.640.

18 “(11) A person whose driving privileges are canceled in this state under
19 ORS 809.310 until the person is eligible under ORS 809.310.

20 “(12) A person while the person’s driving privileges are revoked in this
21 state.

22 “(13) A person during a period when the person’s driving privileges are
23 suspended in this state.

24 “(14) A person who holds a current out-of-state license or driver permit
25 or a valid Oregon license or driver permit. A person who is not eligible un-
26 der this subsection may become eligible by surrendering the license, driver
27 permit or out-of-state license or driver permit to the department before is-
28 suance of the license. Nothing in this subsection authorizes a person to
29 continue to operate a motor vehicle on the basis of an out-of-state license
30 or permit if the person is required by ORS 807.062 to obtain an Oregon li-

1 cense or permit.

2 “(15) A person who has not complied with the requirements and respon-
3 sibilities created by citation for or conviction of a traffic offense in another
4 jurisdiction if an agreement under ORS 802.530 authorizes the department to
5 withhold issuance of a license.

6 “(16) A person who has not complied with the requirements of section 2,
7 chapter 9, Oregon Laws 2012.

8 **“SECTION 8.** ORS 807.060, as amended by section 4, chapter 9, Oregon
9 Laws 2012, and section 7 of this 2013 Act, is amended to read:

10 “807.060. The Department of Transportation may not grant driving privi-
11 leges to a person under a license if the person is not eligible under this
12 section. The following are not eligible for a license:

13 “(1) A person under 16 years of age.

14 “(2)(a) A person under 18 years of age who is not an emancipated minor
15 unless the application of the person is signed by the person’s mother, father
16 or legal guardian. A person who signs an application under this paragraph
17 may have the driving privileges canceled as provided under ORS 809.320.

18 “(b) A person under 18 years of age who does not meet the requirements
19 of ORS 807.065.

20 “(3) Notwithstanding subsection (2) of this section, a person under 18
21 years of age is not eligible for a commercial driver license.

22 “(4) A person that the department determines has a problem condition
23 involving [*intoxicants*] **alcohol, inhalants or controlled substances** as de-
24 scribed under ORS 813.040.

25 “(5) A person the department reasonably believes has a mental or physical
26 condition or impairment that affects the person’s ability to safely operate a
27 motor vehicle upon the highways.

28 “(6) A person the department reasonably believes is unable to understand
29 highway signs that warn, regulate or direct traffic.

30 “(7) A person who is required to make future responsibility filings but

1 has not made filings as required.

2 “(8) A person who cannot be issued a license under the Driver License
3 Compact under ORS 802.540.

4 “(9) A person who is not subject to the Driver License Compact under
5 ORS 802.540 but whose driving privileges are currently under suspension or
6 revocation in any other state upon grounds which, if committed in this state,
7 would be grounds for the suspension or revocation of the driving privileges
8 of the person.

9 “(10) A person who has been declared a habitual offender under ORS
10 809.640. A person declared not eligible to be licensed under this subsection
11 may become eligible by having eligibility restored under ORS 809.640.

12 “(11) A person whose driving privileges are canceled in this state under
13 ORS 809.310 until the person is eligible under ORS 809.310.

14 “(12) A person while the person’s driving privileges are revoked in this
15 state.

16 “(13) A person during a period when the person’s driving privileges are
17 suspended in this state.

18 “(14) A person who holds a current out-of-state license or driver permit
19 or a valid Oregon license or driver permit. A person who is not eligible un-
20 der this subsection may become eligible by surrendering the license, driver
21 permit or out-of-state license or driver permit to the department before is-
22 suance of the license. Nothing in this subsection authorizes a person to
23 continue to operate a motor vehicle on the basis of an out-of-state license
24 or permit if the person is required by ORS 807.062 to obtain an Oregon li-
25 cense or permit.

26 “(15) A person who has not complied with the requirements and respon-
27 sibilities created by citation for or conviction of a traffic offense in another
28 jurisdiction if an agreement under ORS 802.530 authorizes the department to
29 withhold issuance of a license.

30 “(16) A person who has not complied with the requirements of section 2,

1 chapter 9, Oregon Laws 2012.

2 **“SECTION 9. The amendments to ORS 807.060 by section 8 of this**
3 **2013 Act become operative on January 2, 2016.**

4 **“SECTION 10.** ORS 807.060, as amended by sections 4 and 5, chapter 9,
5 Oregon Laws 2012, is amended to read:

6 “807.060. The Department of Transportation may not grant driving privi-
7 leges to a person under a license if the person is not eligible under this
8 section. The following are not eligible for a license:

9 “(1) A person under 16 years of age.

10 “(2)(a) A person under 18 years of age who is not an emancipated minor
11 unless the application of the person is signed by the person’s mother, father
12 or legal guardian. A person who signs an application under this paragraph
13 may have the driving privileges canceled as provided under ORS 809.320.

14 “(b) A person under 18 years of age who does not meet the requirements
15 of ORS 807.065.

16 “(3) Notwithstanding subsection (2) of this section, a person under 18
17 years of age is not eligible for a commercial driver license.

18 “(4) A person that the department determines has a problem condition
19 involving [*alcohol, inhalants or controlled substances*] **intoxicants** as de-
20 scribed under ORS 813.040.

21 “(5) A person the department reasonably believes has a mental or physical
22 condition or impairment that affects the person’s ability to safely operate a
23 motor vehicle upon the highways.

24 “(6) A person the department reasonably believes is unable to understand
25 highway signs that warn, regulate or direct traffic.

26 “(7) A person who is required to make future responsibility filings but
27 has not made filings as required.

28 “(8) A person who cannot be issued a license under the Driver License
29 Compact under ORS 802.540.

30 “(9) A person who is not subject to the Driver License Compact under

1 ORS 802.540 but whose driving privileges are currently under suspension or
2 revocation in any other state upon grounds which, if committed in this state,
3 would be grounds for the suspension or revocation of the driving privileges
4 of the person.

5 “(10) A person who has been declared a habitual offender under ORS
6 809.640. A person declared not eligible to be licensed under this subsection
7 may become eligible by having eligibility restored under ORS 809.640.

8 “(11) A person whose driving privileges are canceled in this state under
9 ORS 809.310 until the person is eligible under ORS 809.310.

10 “(12) A person while the person’s driving privileges are revoked in this
11 state.

12 “(13) A person during a period when the person’s driving privileges are
13 suspended in this state.

14 “(14) A person who holds a current out-of-state license or driver permit
15 or a valid Oregon license or driver permit. A person who is not eligible un-
16 der this subsection may become eligible by surrendering the license, driver
17 permit or out-of-state license or driver permit to the department before is-
18 suance of the license. Nothing in this subsection authorizes a person to
19 continue to operate a motor vehicle on the basis of an out-of-state license
20 or permit if the person is required by ORS 807.062 to obtain an Oregon li-
21 cense or permit.

22 “(15) A person who has not complied with the requirements and respon-
23 sibilities created by citation for or conviction of a traffic offense in another
24 jurisdiction if an agreement under ORS 802.530 authorizes the department to
25 withhold issuance of a license.

26 “**SECTION 11.** ORS 807.060, as amended by sections 4 and 5, chapter 9,
27 Oregon Laws 2012, and section 10 of this 2013 Act is amended to read:

28 “807.060. The Department of Transportation may not grant driving privi-
29 leges to a person under a license if the person is not eligible under this
30 section. The following are not eligible for a license:

- 1 “(1) A person under 16 years of age.
- 2 “(2)(a) A person under 18 years of age who is not an emancipated minor
3 unless the application of the person is signed by the person’s mother, father
4 or legal guardian. A person who signs an application under this paragraph
5 may have the driving privileges canceled as provided under ORS 809.320.
- 6 “(b) A person under 18 years of age who does not meet the requirements
7 of ORS 807.065.
- 8 “(3) Notwithstanding subsection (2) of this section, a person under 18
9 years of age is not eligible for a commercial driver license.
- 10 “(4) A person that the department determines has a problem condition
11 involving [*intoxicants*] **alcohol, inhalants or controlled substances** as de-
12 scribed under ORS 813.040.
- 13 “(5) A person the department reasonably believes has a mental or physical
14 condition or impairment that affects the person’s ability to safely operate a
15 motor vehicle upon the highways.
- 16 “(6) A person the department reasonably believes is unable to understand
17 highway signs that warn, regulate or direct traffic.
- 18 “(7) A person who is required to make future responsibility filings but
19 has not made filings as required.
- 20 “(8) A person who cannot be issued a license under the Driver License
21 Compact under ORS 802.540.
- 22 “(9) A person who is not subject to the Driver License Compact under
23 ORS 802.540 but whose driving privileges are currently under suspension or
24 revocation in any other state upon grounds which, if committed in this state,
25 would be grounds for the suspension or revocation of the driving privileges
26 of the person.
- 27 “(10) A person who has been declared a habitual offender under ORS
28 809.640. A person declared not eligible to be licensed under this subsection
29 may become eligible by having eligibility restored under ORS 809.640.
- 30 “(11) A person whose driving privileges are canceled in this state under

1 ORS 809.310 until the person is eligible under ORS 809.310.

2 “(12) A person while the person’s driving privileges are revoked in this
3 state.

4 “(13) A person during a period when the person’s driving privileges are
5 suspended in this state.

6 “(14) A person who holds a current out-of-state license or driver permit
7 or a valid Oregon license or driver permit. A person who is not eligible un-
8 der this subsection may become eligible by surrendering the license, driver
9 permit or out-of-state license or driver permit to the department before is-
10 suance of the license. Nothing in this subsection authorizes a person to
11 continue to operate a motor vehicle on the basis of an out-of-state license
12 or permit if the person is required by ORS 807.062 to obtain an Oregon li-
13 cense or permit.

14 “(15) A person who has not complied with the requirements and respon-
15 sibilities created by citation for or conviction of a traffic offense in another
16 jurisdiction if an agreement under ORS 802.530 authorizes the department to
17 withhold issuance of a license.

18 **“SECTION 12. The amendments to ORS 807.060 by section 11 of this
19 2013 Act become operative on January 2, 2016.**

20 **“SECTION 13. ORS 807.250 is amended to read:**

21 “807.250. (1) In addition to any requirements under ORS 807.240 and any
22 applicable conditions under ORS 813.500 and 813.520, the Department of
23 Transportation may not issue a hardship permit under ORS 807.240 to a
24 person whose suspension of driving privileges is based upon a conviction of
25 any of the following unless the person submits to the department a recom-
26 mendation from the judge before whom the person was convicted:

27 “(a) ORS 811.140.

28 “(b) ORS 811.540.

29 “(c) Driving while under the influence of intoxicants. If a person’s driving
30 privileges are suspended for a conviction for driving while under the influ-

1 ence of intoxicants and the person is determined under ORS 813.500 to have
2 a problem condition involving [*alcohol, inhalants or controlled substances*]
3 **intoxicants** as described in ORS 813.040, the judge must:

4 “(A) Make the recommendation with reference to the best interest of the
5 public as well as of the defendant and the recommendation must be in writ-
6 ing.

7 “(B) Recommend times, places, routes and days minimally necessary for
8 the person to seek or retain employment, to attend any alcohol or drug
9 treatment or rehabilitation program or to receive necessary medical treat-
10 ment for the person or a member of the person’s immediate family.

11 “(2) The department may not issue a hardship permit to a person whose
12 suspension of driving privileges is based on a conviction described in ORS
13 809.265.

14 “(3) The department may not issue a hardship permit to a person whose
15 driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783.

16 “(4) The department may not issue a hardship permit to a person whose
17 driving privileges are suspended pursuant to ORS 809.280 (4) or 809.416 (1)
18 or (2).

19 “**SECTION 14.** ORS 807.250, as amended by section 13 of this 2013 Act,
20 is amended to read:

21 “807.250. (1) In addition to any requirements under ORS 807.240 and any
22 applicable conditions under ORS 813.500 and 813.520, the Department of
23 Transportation may not issue a hardship permit under ORS 807.240 to a
24 person whose suspension of driving privileges is based upon a conviction of
25 any of the following unless the person submits to the department a recom-
26 mendation from the judge before whom the person was convicted:

27 “(a) ORS 811.140.

28 “(b) ORS 811.540.

29 “(c) Driving while under the influence of intoxicants. If a person’s driving
30 privileges are suspended for a conviction for driving while under the influ-

1 ence of intoxicants and the person is determined under ORS 813.500 to have
2 a problem condition involving [*intoxicants*] **alcohol, inhalants or con-**
3 **trolled substances** as described in ORS 813.040, the judge must:

4 “(A) Make the recommendation with reference to the best interest of the
5 public as well as of the defendant and the recommendation must be in writ-
6 ing.

7 “(B) Recommend times, places, routes and days minimally necessary for
8 the person to seek or retain employment, to attend any alcohol or drug
9 treatment or rehabilitation program or to receive necessary medical treat-
10 ment for the person or a member of the person’s immediate family.

11 “(2) The department may not issue a hardship permit to a person whose
12 suspension of driving privileges is based on a conviction described in ORS
13 809.265.

14 “(3) The department may not issue a hardship permit to a person whose
15 driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783.

16 “(4) The department may not issue a hardship permit to a person whose
17 driving privileges are suspended pursuant to ORS 809.280 (4) or 809.416 (1)
18 or (2).

19 **“SECTION 15. The amendments to ORS 807.250 by section 14 of this**
20 **2013 Act become operative on January 2, 2016.**

21 **“SECTION 16. ORS 809.235 is amended to read:**

22 “809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order
23 that a person’s driving privileges be permanently revoked if the person is
24 convicted of any degree of murder and the court finds that the person in-
25 tentiously used a motor vehicle as a dangerous weapon resulting in the
26 death of the victim, or if the person is convicted of aggravated vehicular
27 homicide, manslaughter in the first or second degree resulting from the op-
28 eration of a motor vehicle, criminally negligent homicide resulting from the
29 operation of a motor vehicle or assault in the first degree resulting from the
30 operation of a motor vehicle.

1 “(b) The court shall order that a person’s driving privileges be perma-
2 nently revoked if the person is convicted of felony driving while under the
3 influence of intoxicants in violation of ORS 813.010 or if the person is con-
4 victed for a third or subsequent time of any of the following offenses in any
5 combination:

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

7 “(i) ORS 813.010; or

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

9 “(B) A driving under the influence of intoxicants offense in another ju-
10 risdiction that involved the impaired driving of a vehicle due to the use of
11 [*intoxicating liquor, a controlled substance, an inhalant or any combination*
12 *thereof*] **an intoxicant or a combination of intoxicants.**

13 “(C) A driving offense in another jurisdiction that involved operating a
14 vehicle while having a blood alcohol content above that jurisdiction’s per-
15 missible blood alcohol content.

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

21 “(2)(a) A person whose driving privileges are revoked as described in
22 subsection (1) of this section may file a petition in the circuit court of the
23 county in which the person’s driving privileges were revoked for an order
24 restoring the person’s driving privileges. A petition may be filed under this
25 subsection no sooner than 10 years after the person is:

26 “(A) Released on parole or post-prison supervision for the crime for which
27 the person’s driving privileges were revoked and any other crimes arising
28 out of the same criminal episode;

29 “(B) Sentenced to probation for the crime for which the person’s driving
30 privileges were revoked, unless the probation is revoked, in which case the

1 petition may be filed no sooner than 10 years after the date probation is re-
2 voked; or

3 “(C) Sentenced for the crime for which the person’s driving privileges
4 were revoked, if no other provision of this paragraph applies.

5 “(b) Notwithstanding paragraph (a) of this subsection, if during the re-
6 vocation period for the crime for which the person was convicted the person
7 is convicted of a criminal offense involving a motor vehicle, the person may
8 file a petition to restore driving privileges as described in paragraph (a) of
9 this subsection no sooner than 10 years from the date of the most recent
10 conviction involving a motor vehicle.

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

14 “(3) The court shall hold a hearing on a petition filed in accordance with
15 subsection (2) of this section. In determining whether to grant the petition,
16 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
20 both before and after the conviction that resulted in the revocation.

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

24 “(e) Any other relevant factors.

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

28 “(a) Is rehabilitated;

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

30 “(c) If the sentence for the crime for which the petitioner’s driving priv-

1 illeges were revoked required the petitioner to complete an alcohol or drug
2 treatment program, has completed an alcohol or drug treatment program in
3 a facility approved by the Director of the Oregon Health Authority or a
4 similar program in another jurisdiction.

5 “(5) Upon receiving a court order to restore a person’s driving privileges,
6 the department may reinstate driving privileges in accordance with ORS
7 809.390, except that the department may not reinstate driving privileges of
8 any person whose privileges are revoked under this section until the person
9 complies with future responsibility filings.

10 **“SECTION 17.** ORS 809.235, as amended by section 16 of this 2013 Act,
11 is amended to read:

12 “809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order
13 that a person’s driving privileges be permanently revoked if the person is
14 convicted of any degree of murder and the court finds that the person in-
15 tentionally used a motor vehicle as a dangerous weapon resulting in the
16 death of the victim, or if the person is convicted of aggravated vehicular
17 homicide, manslaughter in the first or second degree resulting from the op-
18 eration of a motor vehicle, criminally negligent homicide resulting from the
19 operation of a motor vehicle or assault in the first degree resulting from the
20 operation of a motor vehicle.

21 “(b) The court shall order that a person’s driving privileges be perma-
22 nently revoked if the person is convicted of felony driving while under the
23 influence of intoxicants in violation of ORS 813.010 or if the person is con-
24 victed for a third or subsequent time of any of the following offenses in any
25 combination:

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

27 “(i) ORS 813.010; or

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

29 “(B) A driving under the influence of intoxicants offense in another ju-
30 risdiction that involved the impaired driving of a vehicle due to the use of

1 [an intoxicant or a combination of intoxicants] **intoxicating liquor, a con-**
2 **trolled substance, an inhalant or any combination thereof.**

3 “(C) A driving offense in another jurisdiction that involved operating a
4 vehicle while having a blood alcohol content above that jurisdiction’s per-
5 missible blood alcohol content.

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

11 “(2)(a) A person whose driving privileges are revoked as described in
12 subsection (1) of this section may file a petition in the circuit court of the
13 county in which the person’s driving privileges were revoked for an order
14 restoring the person’s driving privileges. A petition may be filed under this
15 subsection no sooner than 10 years after the person is:

16 “(A) Released on parole or post-prison supervision for the crime for which
17 the person’s driving privileges were revoked and any other crimes arising
18 out of the same criminal episode;

19 “(B) Sentenced to probation for the crime for which the person’s driving
20 privileges were revoked, unless the probation is revoked, in which case the
21 petition may be filed no sooner than 10 years after the date probation is re-
22 voked; or

23 “(C) Sentenced for the crime for which the person’s driving privileges
24 were revoked, if no other provision of this paragraph applies.

25 “(b) Notwithstanding paragraph (a) of this subsection, if during the re-
26 vocation period for the crime for which the person was convicted the person
27 is convicted of a criminal offense involving a motor vehicle, the person may
28 file a petition to restore driving privileges as described in paragraph (a) of
29 this subsection no sooner than 10 years from the date of the most recent
30 conviction involving a motor vehicle.

1 “(c) The district attorney of the county in which the person’s driving
2 privileges were revoked shall be named and served as the respondent in the
3 petition.

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

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

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

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

11 “(d) The recommendation of the person’s parole officer, which shall be
12 based in part on a psychological evaluation ordered by the court to deter-
13 mine whether the person is presently a threat to the safety of the public.

14 “(e) Any other relevant factors.

15 “(4) The court shall order a petitioner’s driving privileges restored if, af-
16 ter a hearing described in subsection (3) of this section, the court finds by
17 clear and convincing evidence that the petitioner:

18 “(a) Is rehabilitated;

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

20 “(c) If the sentence for the crime for which the petitioner’s driving priv-
21 ileges were revoked required the petitioner to complete an alcohol or drug
22 treatment program, has completed an alcohol or drug treatment program in
23 a facility approved by the Director of the Oregon Health Authority or a
24 similar program in another jurisdiction.

25 “(5) Upon receiving a court order to restore a person’s driving privileges,
26 the department may reinstate driving privileges in accordance with ORS
27 809.390, except that the department may not reinstate driving privileges of
28 any person whose privileges are revoked under this section until the person
29 complies with future responsibility filings.

30 “**SECTION 18. The amendments to ORS 809.235 by section 17 of this**

1 **2013 Act become operative on January 2, 2016.**

2 **“SECTION 19.** ORS 809.265 is amended to read:

3 “809.265. (1) Unless the court finds compelling circumstances not to order
4 suspension of driving privileges, the court in which a person is convicted of
5 an offense described in this subsection shall order suspension of the person’s
6 driving privileges. This subsection applies when a person is convicted of:

7 “(a) Any offense involving manufacturing, possession or delivery of con-
8 trolled substances.

9 “(b) Driving while under the influence of intoxicants in violation of ORS
10 813.010 or of a municipal ordinance if the person was under the influence
11 of an [*inhalant or a controlled substance*] **intoxicant other than**
12 **intoxicating liquor.**

13 “(2) Upon receipt of an order under this section, the department shall
14 take action as directed under ORS 809.280.

15 **“SECTION 20.** ORS 809.265, as amended by section 19 of this 2013 Act,
16 is amended to read:

17 “809.265. (1) Unless the court finds compelling circumstances not to order
18 suspension of driving privileges, the court in which a person is convicted of
19 an offense described in this subsection shall order suspension of the person’s
20 driving privileges. This subsection applies when a person is convicted of:

21 “(a) Any offense involving manufacturing, possession or delivery of con-
22 trolled substances.

23 “(b) Driving while under the influence of intoxicants in violation of ORS
24 813.010 or of a municipal ordinance if the person was under the influence
25 of an [*intoxicant other than intoxicating liquor*] **inhalant or a controlled**
26 **substance.**

27 “(2) Upon receipt of an order under this section, the department shall
28 take action as directed under ORS 809.280.

29 **“SECTION 21. The amendments to ORS 809.265 by section 20 of this**
30 **2013 Act become operative on January 2, 2016.**

1 **“SECTION 22.** ORS 809.730 is amended to read:

2 “809.730. (1) A motor vehicle may be seized and forfeited if the person
3 operating the vehicle is arrested or issued a citation for driving while under
4 the influence of intoxicants in violation of ORS 813.010 and the person,
5 within three years prior to the arrest or issuance of the citation, has been
6 convicted of:

7 “(a) Driving while under the influence of intoxicants in violation of:

8 “(A) ORS 813.010; or

9 “(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

10 “(b) A driving under the influence of intoxicants offense in another ju-
11 risdiction that involved the impaired driving of a vehicle due to the use of
12 [*intoxicating liquor, a controlled substance, an inhalant or any combination*
13 *thereof*] **an intoxicant or a combination of intoxicants;**

14 “(c) A driving offense in another jurisdiction that involved operating a
15 vehicle while having a blood alcohol content above that jurisdiction’s per-
16 missible blood alcohol content;

17 “(d) Murder, manslaughter, criminally negligent homicide or assault that
18 resulted from the operation of a motor vehicle in this state or in another
19 jurisdiction; or

20 “(e) Aggravated vehicular homicide under ORS 163.149 or aggravated
21 driving while suspended or revoked under ORS 163.196.

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

27 “(3) All seizure and forfeiture proceedings under this section shall be
28 conducted in accordance with ORS chapter 131A.

29 **“SECTION 23.** ORS 809.730, as amended by section 22 of this 2013 Act,
30 is amended to read:

1 “809.730. (1) A motor vehicle may be seized and forfeited if the person
2 operating the vehicle is arrested or issued a citation for driving while under
3 the influence of intoxicants in violation of ORS 813.010 and the person,
4 within three years prior to the arrest or issuance of the citation, has been
5 convicted of:

6 “(a) Driving while under the influence of intoxicants in violation of:

7 “(A) ORS 813.010; or

8 “(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

9 “(b) A driving under the influence of intoxicants offense in another ju-
10 risdiction that involved the impaired driving of a vehicle due to the use of
11 [*an intoxicant or a combination of intoxicants*] **intoxicating liquor, a con-**
12 **trolled substance, an inhalant or any combination thereof;**

13 “(c) A driving offense in another jurisdiction that involved operating a
14 vehicle while having a blood alcohol content above that jurisdiction’s per-
15 missible blood alcohol content;

16 “(d) Murder, manslaughter, criminally negligent homicide or assault that
17 resulted from the operation of a motor vehicle in this state or in another
18 jurisdiction; or

19 “(e) Aggravated vehicular homicide under ORS 163.149 or aggravated
20 driving while suspended or revoked under ORS 163.196.

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

26 “(3) All seizure and forfeiture proceedings under this section shall be
27 conducted in accordance with ORS chapter 131A.

28 **“SECTION 24. The amendments to ORS 813.730 by section 23 of this**
29 **2013 Act become operative on January 2, 2016.**

30 **“SECTION 25.** ORS 813.010 is amended to read:

1 “813.010. (1) A person commits the offense of driving while under the in-
2 fluence of intoxicants if the person drives a vehicle while the person:

3 “(a) Has 0.08 percent or more by weight of alcohol in the blood of the
4 person as shown by chemical analysis of the breath or blood of the person
5 made under ORS 813.100, 813.140 or 813.150;

6 “(b) Is under the influence of [*intoxicating liquor, a controlled substance*
7 *or an inhalant*] **an intoxicant**; or

8 “(c) Is under the influence of any combination of [*intoxicating liquor, an*
9 *inhalant and a controlled substance*] **intoxicants**.

10 “(2) A person may not be convicted of driving while under the influence
11 of intoxicants on the basis of being under the influence of a controlled sub-
12 stance or an inhalant unless the fact that the person was under the influence
13 of a controlled substance or an inhalant is pleaded in the accusatory in-
14 strument [*and is either proved at trial or is admitted by the person through*
15 *a guilty plea*].

16 “(3) A person convicted of the offense described in this section is subject
17 to ORS 813.020 in addition to this section.

18 “(4) Except as provided in subsection (5) of this section, the offense de-
19 scribed in this section, driving while under the influence of intoxicants, is
20 a Class A misdemeanor and is applicable upon any premises open to the
21 public.

22 “(5)(a) Driving while under the influence of intoxicants is a Class C fel-
23 ony if the current offense was committed in a motor vehicle and the person
24 has, at least three times in the 10 years prior to the date of the current of-
25 fense, been convicted of, or been found to be within the jurisdiction of the
26 juvenile court for an act that if committed by an adult would be, any of the
27 following offenses in any combination:

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

29 “(i) This section; or

30 “(ii) The statutory counterpart to this section in another jurisdiction.

1 “(B) A driving under the influence of intoxicants offense in another ju-
2 risdiction that involved the impaired driving or operation of a vehicle, an
3 aircraft or a boat due to the use of [*intoxicating liquor, a controlled sub-*
4 *stance, an inhalant or any combination thereof*] **an intoxicant or a combi-**
5 **nation of intoxicants.**

6 “(C) A driving offense in another jurisdiction that involved operating a
7 vehicle, an aircraft or a boat while having a blood alcohol content above
8 that jurisdiction’s permissible blood alcohol content.

9 “(b) For the purposes of paragraph (a) of this subsection, a conviction or
10 adjudication for a driving offense in another jurisdiction based solely on a
11 person under 21 years of age having a blood alcohol content that is lower
12 than the permissible blood alcohol content in that jurisdiction for a person
13 21 years of age or older does not constitute a prior conviction or adjudi-
14 cation.

15 “(6) In addition to any other sentence that may be imposed, the court
16 shall impose one or more of the following fines on a person convicted of
17 driving while under the influence of intoxicants as follows:

18 “(a) For a person’s first conviction, a minimum of \$1,000.

19 “(b) For a person’s second conviction, a minimum of \$1,500.

20 “(c) For a person’s third or subsequent conviction, a minimum of \$2,000
21 if the person is not sentenced to a term of imprisonment.

22 “(d) For a person who drives a vehicle while the person has 0.15 percent
23 or more by weight of alcohol in the blood of the person as shown by chemical
24 analysis of the breath or blood of the person made under ORS 813.100, 813.140
25 or 813.150, a minimum of \$2,000.

26 “(7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a
27 court may impose on a person convicted of driving while under the influence
28 of intoxicants if:

29 “(a) The current offense was committed in a motor vehicle; and

30 “(b) There was a passenger in the motor vehicle who was under 18 years

1 of age and was at least three years younger than the person driving the
2 motor vehicle.

3 **“SECTION 26.** ORS 813.010, as amended by section 25 of this 2013 Act,
4 is amended to read:

5 “813.010. (1) A person commits the offense of driving while under the in-
6 fluence of intoxicants if the person drives a vehicle while the person:

7 “(a) Has 0.08 percent or more by weight of alcohol in the blood of the
8 person as shown by chemical analysis of the breath or blood of the person
9 made under ORS 813.100, 813.140 or 813.150;

10 “(b) Is under the influence of [*an intoxicant*] **intoxicating liquor, a**
11 **controlled substance or an inhalant;** or

12 “(c) Is under the influence of any combination of [*intoxicants*]
13 **intoxicating liquor, a controlled substance or an inhalant.**

14 “(2) A person may not be convicted of driving while under the influence
15 of intoxicants on the basis of being under the influence of a controlled sub-
16 stance or an inhalant unless the fact that the person was under the influence
17 of a controlled substance or an inhalant is pleaded in the accusatory in-
18 strument **and is either proved at trial or is admitted by the person**
19 **through a guilty plea.**

20 “(3) A person convicted of the offense described in this section is subject
21 to ORS 813.020 in addition to this section.

22 “(4) Except as provided in subsection (5) of this section, the offense de-
23 scribed in this section, driving while under the influence of intoxicants, is
24 a Class A misdemeanor and is applicable upon any premises open to the
25 public.

26 “(5)(a) Driving while under the influence of intoxicants is a Class C fel-
27 ony if the current offense was committed in a motor vehicle and the person
28 has, at least three times in the 10 years prior to the date of the current of-
29 fense, been convicted of, or been found to be within the jurisdiction of the
30 juvenile court for an act that if committed by an adult would be, any of the

1 following offenses in any combination:

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

3 “(i) This section; or

4 “(ii) The statutory counterpart to this section in another jurisdiction.

5 “(B) A driving under the influence of intoxicants offense in another ju-
6 risdiction that involved the impaired driving or operation of a vehicle, an
7 aircraft or a boat due to the use of [*an intoxicant or a combination of*
8 *intoxicants*] **intoxicating liquor, a controlled substance, an inhalant or**
9 **any combination thereof.**

10 “(C) A driving offense in another jurisdiction that involved operating a
11 vehicle, an aircraft or a boat while having a blood alcohol content above
12 that jurisdiction’s permissible blood alcohol content.

13 “(b) For the purposes of paragraph (a) of this subsection, a conviction or
14 adjudication for a driving offense in another jurisdiction based solely on a
15 person under 21 years of age having a blood alcohol content that is lower
16 than the permissible blood alcohol content in that jurisdiction for a person
17 21 years of age or older does not constitute a prior conviction or adjudi-
18 cation.

19 “(6) In addition to any other sentence that may be imposed, the court
20 shall impose one or more of the following fines on a person convicted of
21 driving while under the influence of intoxicants as follows:

22 “(a) For a person’s first conviction, a minimum of \$1,000.

23 “(b) For a person’s second conviction, a minimum of \$1,500.

24 “(c) For a person’s third or subsequent conviction, a minimum of \$2,000
25 if the person is not sentenced to a term of imprisonment.

26 “(d) For a person who drives a vehicle while the person has 0.15 percent
27 or more by weight of alcohol in the blood of the person as shown by chemical
28 analysis of the breath or blood of the person made under ORS 813.100, 813.140
29 or 813.150, a minimum of \$2,000.

30 “(7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a

1 court may impose on a person convicted of driving while under the influence
2 of intoxicants if:

3 “(a) The current offense was committed in a motor vehicle; and

4 “(b) There was a passenger in the motor vehicle who was under 18 years
5 of age and was at least three years younger than the person driving the
6 motor vehicle.

7 **“SECTION 27. The amendments to ORS 813.010 by section 26 of this
8 2013 Act become operative on January 2, 2016.**

9 **“SECTION 28. Section 29 of this 2013 Act is added to and made a
10 part of the Oregon Vehicle Code.**

11 **“SECTION 29. (1) In a prosecution under ORS 813.010 for driving
12 while under the influence of intoxicants other than intoxicating liquor,
13 a controlled substance or an inhalant, it is an affirmative defense that:**

14 **“(a) The defendant lawfully obtained and consumed a drug de-
15 scribed in section 2 (4) of this 2013 Act;**

16 **“(b) The defendant consumed the drug in the prescribed or recom-
17 mended dosage and followed all directions and warnings relating to
18 consumption of the drug, including directions, if any, from the man-
19 ufacturer of the drug, the pharmacist who provided the drug to the
20 defendant and the physician or other health care professional who
21 prescribed or recommended the drug to the defendant; and**

22 **“(c) The defendant experienced a reaction to the drug that the de-
23 fendant could not reasonably have anticipated and that caused the
24 defendant to be impaired while driving or operating the vehicle.**

25 **“(2) The affirmative defense provided under this section may be
26 asserted only with respect to the impairment that was caused by an
27 unanticipated adverse reaction to the drug, and may not be asserted
28 with respect to impairment caused by use of the drug in conjunction
29 with intoxicating liquor, a controlled substance or an inhalant.**

30 **“SECTION 30. Section 29 of this 2013 Act is repealed on January 2,**

1 **2016.**

2 **“SECTION 31.** ORS 813.040 is amended to read:

3 “813.040. This section establishes, for purposes of ORS 471.432, 807.060 and
4 813.500, when a person has a problem condition involving [*alcohol, inhalants*
5 *or controlled substances*] **intoxicants**. For purposes of ORS 471.432, 807.060
6 and 813.500, a person has a problem condition involving [*alcohol, inhalants*
7 *or controlled substances*] **intoxicants** if it is determined that the person has
8 a problem condition in which the person’s health or that of others is sub-
9 stantially impaired or endangered or the person’s social or economic function
10 is substantially disrupted because of the person’s:

11 “(1) Habitual or periodic use of alcoholic beverages; or

12 “(2) Use of or loss of the ability to control the use of controlled sub-
13 stances, inhalants or other substances with abuse potential including a con-
14 dition that may have developed:

15 “(a) A physical dependence in which the body requires a continuing sup-
16 ply of a drug, inhalant or controlled substance to avoid characteristic with-
17 drawal symptoms; or

18 “(b) A psychological dependence characterized by an overwhelming mental
19 desire for continued use of a drug, inhalant or controlled substance.

20 **“SECTION 32.** ORS 813.040, as amended by section 31 of this 2013 Act,
21 is amended to read:

22 “813.040. This section establishes, for purposes of ORS 471.432, 807.060 and
23 813.500, when a person has a problem condition involving [*intoxicants*] **al-**
24 **cohol, inhalants or controlled substances**. For purposes of ORS 471.432,
25 807.060 and 813.500, a person has a problem condition involving
26 [*intoxicants*] **alcohol, inhalants or controlled substances** if it is deter-
27 mined that the person has a problem condition in which the person’s health
28 or that of others is substantially impaired or endangered or the person’s so-
29 cial or economic function is substantially disrupted because of the person’s:

30 “(1) Habitual or periodic use of alcoholic beverages; or

1 “(2) Use of or loss of the ability to control the use of controlled sub-
2 stances, inhalants or other substances with abuse potential including a con-
3 dition that may have developed:

4 “(a) A physical dependence in which the body requires a continuing sup-
5 ply of a drug, inhalant or controlled substance to avoid characteristic with-
6 drawal symptoms; or

7 “(b) A psychological dependence characterized by an overwhelming mental
8 desire for continued use of a drug, inhalant or controlled substance.

9 **“SECTION 33. The amendments to ORS 813.040 by section 32 of this**
10 **2013 Act become operative on January 2, 2016.**

11 **“SECTION 34.** ORS 813.131 is amended to read:

12 “813.131. (1) Any person who operates a motor vehicle upon premises open
13 to the public or the highways of this state shall be deemed to have given
14 consent, subject to the Motorist Implied Consent Law, to a chemical test of
15 the person’s urine for the purpose of determining the presence of [*a con-*
16 *trolled substance or an inhalant*] **an intoxicant other than intoxicating**
17 **liquor** in the person’s body if the person is arrested for driving while under
18 the influence of intoxicants in violation of ORS 813.010 or of a municipal
19 ordinance and either:

20 “(a) The person takes the breath test described in ORS 813.100 and the
21 test discloses a blood alcohol content of less than 0.08 percent; or

22 “(b) The person is involved in an accident resulting in injury or property
23 damage. A urine test may be requested under this paragraph regardless of
24 whether a breath test has been requested and regardless of the results of a
25 breath test, if one is taken.

26 “(2) A police officer may not request a urine test unless the officer is
27 certified by the Board on Public Safety Standards and Training as having
28 completed at least eight hours of training in recognition of drug impaired
29 driving and the officer has a reasonable suspicion that the person arrested
30 has been driving while under the influence of [*a controlled substance, an*

1 *inhalant*] **an intoxicant other than intoxicating liquor** or any combina-
2 tion of [*an inhalant, a controlled substance and intoxicating liquor*]
3 **intoxicants.**

4 “(3) A person asked to give a urine sample shall be given privacy and
5 may not be observed by a police officer when producing the sample.

6 “(4)(a) At the trial of any civil or criminal action, suit or proceeding
7 arising out of the acts committed by a person driving a motor vehicle while
8 under the influence of intoxicants, a valid chemical analysis of a person’s
9 urine is admissible as evidence and may be used with other evidence, if any,
10 to determine whether the person was driving while under the influence of
11 intoxicants.

12 “(b) A chemical analysis of a person’s urine is valid under this subsection
13 if analysis is performed in an accredited or licensed toxicology laboratory.

14 “**SECTION 35.** ORS 813.131, as amended by section 34 of this 2013 Act,
15 is amended to read:

16 “813.131. (1) Any person who operates a motor vehicle upon premises open
17 to the public or the highways of this state shall be deemed to have given
18 consent, subject to the Motorist Implied Consent Law, to a chemical test of
19 the person’s urine for the purpose of determining the presence of [*an*
20 *intoxicant other than intoxicating liquor*] **a controlled substance or an**
21 **inhalant** in the person’s body if the person is arrested for driving while
22 under the influence of intoxicants in violation of ORS 813.010 or of a mu-
23 nicipal ordinance and either:

24 “(a) The person takes the breath test described in ORS 813.100 and the
25 test discloses a blood alcohol content of less than 0.08 percent; or

26 “(b) The person is involved in an accident resulting in injury or property
27 damage. A urine test may be requested under this paragraph regardless of
28 whether a breath test has been requested and regardless of the results of a
29 breath test, if one is taken.

30 “(2) A police officer may not request a urine test unless the officer is

1 certified by the Board on Public Safety Standards and Training as having
2 completed at least eight hours of training in recognition of drug impaired
3 driving and the officer has a reasonable suspicion that the person arrested
4 has been driving while under the influence of [*an intoxicant other than*
5 *intoxicating liquor*] **a controlled substance or an inhalant** or any combi-
6 nation of [*intoxicants*] **an inhalant, a controlled substance and**
7 **intoxicating liquor.**

8 “(3) A person asked to give a urine sample shall be given privacy and
9 may not be observed by a police officer when producing the sample.

10 “(4)(a) At the trial of any civil or criminal action, suit or proceeding
11 arising out of the acts committed by a person driving a motor vehicle while
12 under the influence of intoxicants, a valid chemical analysis of a person’s
13 urine is admissible as evidence and may be used with other evidence, if any,
14 to determine whether the person was driving while under the influence of
15 intoxicants.

16 “(b) A chemical analysis of a person’s urine is valid under this subsection
17 if analysis is performed in an accredited or licensed toxicology laboratory.

18 **“SECTION 36. The amendments to ORS 813.131 by section 35 of this**
19 **2013 Act become operative on January 2, 2016.**

20 **“SECTION 37.** ORS 813.140 is amended to read:

21 “813.140. Nothing in ORS 813.100 is intended to preclude the adminis-
22 tration of a chemical test described in this section. A police officer may ob-
23 tain a chemical test of the blood to determine the amount of [*alcohol*]
24 **intoxicants** in any person’s blood or a test of the person’s [*blood or*]
25 urine[, *or both,*] to determine the presence of [*a controlled substance or an*
26 *inhalant*] **an intoxicant other than intoxicating liquor** in the person as
27 provided in the following:

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

30 “(2) Notwithstanding subsection (1) of this section, from a person without

1 the person's consent if:

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

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

7 **“SECTION 38.** ORS 813.140, as amended by section 37 of this 2013 Act,
8 is amended to read:

9 “813.140. Nothing in ORS 813.100 is intended to preclude the adminis-
10 tration of a chemical test described in this section. A police officer may ob-
11 tain a chemical test of the blood to determine the amount of [*intoxicants*]
12 **alcohol** in any person's blood or a test of the person's **blood or urine, or**
13 **both**, to determine the presence of [*an intoxicant other than intoxicating li-*
14 *quor*] **a controlled substance or an inhalant** in the person as provided in
15 the following:

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

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

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

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

25 **“SECTION 39. The amendments to ORS 813.140 by section 38 of this**
26 **2013 Act become operative on January 2, 2016.**

27 **“SECTION 40.** ORS 813.150 is amended to read:

28 “813.150. [*In addition to a chemical test of the breath, blood or urine ad-*
29 *ministered under ORS 813.100 or 813.140, upon the request of a police officer,*
30 *a person shall be permitted upon request, at the person's own expense, rea-*

1 *sonable opportunity to have any licensed physician and surgeon, licensed pro-*
2 *fessional nurse or qualified technician, chemist or other qualified person of the*
3 *person's own choosing administer a chemical test or tests of the person's breath*
4 *or blood for the purpose of determining the alcoholic content of the person's*
5 *blood or a chemical test or tests of the person's blood or urine, or both, for the*
6 *purpose of determining the presence of a controlled substance or an inhalant*
7 *in the person. The failure or inability to obtain such a test or tests by a person*
8 *shall not preclude the admission of evidence relating to a test or tests taken*
9 *upon the request of a police officer.]*

10 **“(1) In addition to a chemical test of the breath, blood or urine ad-**
11 **ministered under ORS 813.100 or 813.140, upon the request of a police**
12 **officer, a person shall be permitted upon request, at the person's own**
13 **expense, reasonable opportunity to have any licensed physician and**
14 **surgeon, licensed professional nurse or qualified technician, chemist**
15 **or other qualified person of the person's own choosing administer a**
16 **chemical test or tests of the person's:**

17 **“(a) Breath for the purpose of determining the alcoholic content of**
18 **the person's blood;**

19 **“(b) Blood for the purpose of determining the presence of**
20 **intoxicants in the person's blood; or**

21 **“(c) Urine for the purpose of determining the presence of**
22 **intoxicants other than intoxicating liquor in the person.**

23 **“(2) The failure or inability of a person to obtain a test or tests as**
24 **described in subsection (1) of this section does not preclude the ad-**
25 **mission of evidence relating to a test or tests taken upon the request**
26 **of a police officer.**

27 **“SECTION 41. ORS 813.150, as amended by section 40 of this 2013 Act,**
28 **is amended to read:**

29 **“813.150. [(1) In addition to a chemical test of the breath, blood or urine**
30 **administered under ORS 813.100 or 813.140, upon the request of a police offi-**

1 *cer, a person shall be permitted upon request, at the person's own expense,*
2 *reasonable opportunity to have any licensed physician and surgeon, licensed*
3 *professional nurse or qualified technician, chemist or other qualified person*
4 *of the person's own choosing administer a chemical test or tests of the*
5 *person's:]*

6 *"[(a) Breath for the purpose of determining the alcoholic content of the*
7 *person's blood;]*

8 *"[(b) Blood for the purpose of determining the presence of intoxicants in the*
9 *person's blood; or]*

10 *"[(c) Urine for the purpose of determining the presence of intoxicants other*
11 *than intoxicating liquor in the person.]*

12 *"[(2) The failure or inability of a person to obtain a test or tests as de-*
13 *scribed in subsection (1) of this section does not preclude the admission of ev-*
14 *idence relating to a test or tests taken upon the request of a police officer.]* **In**

15 **addition to a chemical test of the breath, blood or urine administered**
16 **under ORS 813.100 or 813.140, upon the request of a police officer, a**
17 **person shall be permitted upon request, at the person's own expense,**
18 **reasonable opportunity to have any licensed physician and surgeon,**
19 **licensed professional nurse or qualified technician, chemist or other**
20 **qualified person of the person's own choosing administer a chemical**
21 **test or tests of the person's breath or blood for the purpose of deter-**
22 **mining the alcoholic content of the person's blood or a chemical test**
23 **or tests of the person's blood or urine, or both, for the purpose of de-**
24 **termining the presence of a controlled substance or an inhalant in the**
25 **person. The failure or inability to obtain such a test or tests by a**
26 **person shall not preclude the admission of evidence relating to a test**
27 **or tests taken upon the request of a police officer.**

28 **"SECTION 42. The amendments to ORS 813.150 by section 41 of this**
29 **2013 Act become operative on January 2, 2016.**

30 **"SECTION 43. ORS 813.215 is amended to read:**

1 “813.215. (1) A defendant is eligible for diversion if the defendant meets
2 all of the following conditions:

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

6 “(A) An offense of driving while under the influence of intoxicants in vi-
7 olation of:

8 “(i) ORS 813.010; or

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

10 “(B) A driving under the influence of intoxicants offense in another ju-
11 risdiction that involved the impaired driving of a vehicle due to the use of
12 [*intoxicating liquor, a controlled substance, an inhalant or any combination*
13 *thereof*] **an intoxicant or a combination of intoxicants; or**

14 “(C) A driving offense in another jurisdiction that involved operating a
15 vehicle while having a blood alcohol content above that jurisdiction’s per-
16 missible blood alcohol content.

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

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

24 “(d) The defendant was not participating in a driving while under the
25 influence of intoxicants diversion program or in any similar alcohol or drug
26 rehabilitation program, other than a program entered into as a result of the
27 charge for the present offense, in this state or in another jurisdiction on the
28 date the defendant filed the petition for a driving while under the influence
29 of intoxicants diversion agreement.

30 “(e) The defendant did not participate in a diversion or rehabilitation

1 program described in paragraph (d) of this subsection, other than a program
2 entered into as a result of the charge for the present offense, within the pe-
3 riod beginning 15 years before the date of the commission of the present of-
4 fense and ending on the date the defendant filed the petition for a driving
5 while under the influence of intoxicants diversion agreement.

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

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

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

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

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

22 “(A) Death of any person; or

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

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

30 “(3) A defendant is eligible for a second or subsequent diversion if the

1 defendant meets all of the conditions of subsection (1) of this section and the
2 defendant has not been convicted of any other criminal offense involving a
3 motor vehicle within the period beginning 15 years before the date of the
4 commission of the present offense and ending on the date the defendant filed
5 the petition for the second or subsequent driving while under the influence
6 of intoxicants diversion agreement.

7 **“SECTION 44.** ORS 813.215, as amended by section 43 of this 2013 Act,
8 is amended to read:

9 “813.215. (1) A defendant is eligible for diversion if the defendant meets
10 all of the following conditions:

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

14 “(A) An offense of driving while under the influence of intoxicants in vi-
15 olation of:

16 “(i) ORS 813.010; or

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

18 “(B) A driving under the influence of intoxicants offense in another ju-
19 risdiction that involved the impaired driving of a vehicle due to the use of
20 [*an intoxicant or a combination of intoxicants*] **intoxicating liquor, a con-**
21 **trolled substance, an inhalant or any combination thereof;** or

22 “(C) A driving offense in another jurisdiction that involved operating a
23 vehicle while having a blood alcohol content above that jurisdiction’s per-
24 missible blood alcohol content.

25 “(b) The defendant has not been convicted of an offense described in
26 paragraph (a) of this subsection within the period beginning 15 years before
27 the date of the commission of the present offense and ending on the date the
28 defendant filed the petition for a driving while under the influence of
29 intoxicants diversion agreement.

30 “(c) The defendant has not been convicted of a felony offense described

1 in ORS 813.010 (5)(a).

2 “(d) The defendant was not participating in a driving while under the
3 influence of intoxicants diversion program or in any similar alcohol or drug
4 rehabilitation program, other than a program entered into as a result of the
5 charge for the present offense, in this state or in another jurisdiction on the
6 date the defendant filed the petition for a driving while under the influence
7 of intoxicants diversion agreement.

8 “(e) The defendant did not participate in a diversion or rehabilitation
9 program described in paragraph (d) of this subsection, other than a program
10 entered into as a result of the charge for the present offense, within the pe-
11 riod beginning 15 years before the date of the commission of the present of-
12 fense and ending on the date the defendant filed the petition for a driving
13 while under the influence of intoxicants diversion agreement.

14 “(f) The defendant had no charge of an offense of aggravated vehicular
15 homicide or of murder, manslaughter, criminally negligent homicide or as-
16 sult that resulted from the operation of a motor vehicle pending in this
17 state or in another jurisdiction on the date the defendant filed the petition
18 for a driving while under the influence of intoxicants diversion agreement.

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

24 “(h) The defendant did not hold a commercial driver license on the date
25 of the commission of the offense.

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

28 “(j) The present driving while under the influence of intoxicants offense
29 did not involve an accident resulting in:

30 “(A) Death of any person; or

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

3 “(2) For the purposes of subsection (1)(a) of this section, a conviction for
4 a driving offense in another jurisdiction based solely on a person under 21
5 years of age having a blood alcohol content that is lower than the permis-
6 sible blood alcohol content in that jurisdiction for a person 21 years of age
7 or older does not constitute a prior conviction.

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

15 **“SECTION 45. The amendments to ORS 813.215 by section 44 of this**
16 **2013 Act become operative on January 2, 2016.**

17 **“SECTION 46. ORS 813.220 is amended to read:**

18 “813.220. After the time for requesting a hearing under ORS 813.210 has
19 expired with no request for a hearing, or after a hearing requested under
20 ORS 813.210, the court shall determine whether to allow or deny a petition
21 for a driving while under the influence of intoxicants diversion agreement.

22 In making a determination under this section, the court:

23 “(1) Shall consider whether the diversion will be of benefit to the de-
24 fendant and the community.

25 “(2) May take into consideration whether there was an early recognition
26 by the defendant during the proceeding that a course of diagnosis and
27 treatment of problem drinking, alcoholism or drug dependency would be
28 beneficial.

29 “(3) May take into consideration whether there is a probability that the
30 defendant will cooperate with the diagnostic assessment and treatment

1 agencies.

2 “(4) May take into consideration whether the defendant will observe the
3 restrictions contained in the diversion agreement.

4 “(5) May take into consideration whether the offense was committed in
5 a motor vehicle and whether there was a passenger in the motor vehicle who
6 was under 18 years of age and at least three years younger than the de-
7 fendant.

8 “(6) Shall deny the petition for a driving while under the influence of
9 intoxicants diversion agreement if the defendant failed to appear at an
10 arraignment on the present offense without good cause.

11 “(7) Shall deny the petition for a driving while under the influence of
12 intoxicants diversion agreement if, after the date the defendant filed the pe-
13 tition, the defendant was charged with or convicted of:

14 “(a) An offense of driving while under the influence of intoxicants in vi-
15 olation of:

16 “(A) ORS 813.010; or

17 “(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

18 “(b) A driving under the influence of intoxicants offense in another ju-
19 risdiction that involved the impaired driving of a vehicle due to the use of
20 [*intoxicating liquor, a controlled substance, an inhalant or any combination*
21 *thereof*] **an intoxicant or a combination of intoxicants**; or

22 “(c) A driving offense in another jurisdiction that involved operating a
23 vehicle while having a blood alcohol content above that jurisdiction’s per-
24 missible blood alcohol content.

25 “(8) Shall deny the petition for a driving while under the influence of
26 intoxicants diversion agreement if the defendant participated in a driving
27 while under the influence of intoxicants diversion program or in any similar
28 alcohol or drug rehabilitation program, other than a program entered into
29 as a result of the charge for the present offense, in this state or in another
30 jurisdiction after the date the defendant filed the petition.

1 “(9) Shall deny the petition for a driving while under the influence of
2 intoxicants diversion agreement if the defendant was charged with or con-
3 victed of an offense of aggravated vehicular homicide or of murder,
4 manslaughter, criminally negligent homicide or assault that resulted from
5 the operation of a motor vehicle in this state or in another jurisdiction after
6 the date the defendant filed the petition.

7 “(10) Shall deny the petition for a driving while under the influence of
8 intoxicants diversion agreement if the defendant has been convicted of a
9 felony offense described in ORS 813.010 (5)(a).

10 “(11) For the purposes of subsection (7) of this section, may not consider
11 a conviction for a driving offense in another jurisdiction based solely on a
12 person under 21 years of age having a blood alcohol content that is lower
13 than the permissible blood alcohol content in that jurisdiction for a person
14 21 years of age or older as a prior conviction.

15 “(12) May not deny the petition for a driving while under the influence
16 of intoxicants diversion agreement solely on the basis that the defendant is
17 a member of the Armed Forces of the United States, the reserve components
18 of the Armed Forces of the United States or the National Guard and has
19 been called or demonstrates that the defendant will be called to active duty,
20 and the military service will impair the defendant’s ability to complete the
21 diversion program.

22 “**SECTION 47.** ORS 813.220, as amended by section 46 of this 2013 Act,
23 is amended to read:

24 “813.220. After the time for requesting a hearing under ORS 813.210 has
25 expired with no request for a hearing, or after a hearing requested under
26 ORS 813.210, the court shall determine whether to allow or deny a petition
27 for a driving while under the influence of intoxicants diversion agreement.
28 In making a determination under this section, the court:

29 “(1) Shall consider whether the diversion will be of benefit to the de-
30 fendant and the community.

1 “(2) May take into consideration whether there was an early recognition
2 by the defendant during the proceeding that a course of diagnosis and
3 treatment of problem drinking, alcoholism or drug dependency would be
4 beneficial.

5 “(3) May take into consideration whether there is a probability that the
6 defendant will cooperate with the diagnostic assessment and treatment
7 agencies.

8 “(4) May take into consideration whether the defendant will observe the
9 restrictions contained in the diversion agreement.

10 “(5) May take into consideration whether the offense was committed in
11 a motor vehicle and whether there was a passenger in the motor vehicle who
12 was under 18 years of age and at least three years younger than the de-
13 fendant.

14 “(6) Shall deny the petition for a driving while under the influence of
15 intoxicants diversion agreement if the defendant failed to appear at an
16 arraignment on the present offense without good cause.

17 “(7) Shall deny the petition for a driving while under the influence of
18 intoxicants diversion agreement if, after the date the defendant filed the pe-
19 tition, the defendant was charged with or convicted of:

20 “(a) An offense of driving while under the influence of intoxicants in vi-
21 olation of:

22 “(A) ORS 813.010; or

23 “(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

24 “(b) A driving under the influence of intoxicants offense in another ju-
25 risdiction that involved the impaired driving of a vehicle due to the use of
26 [*an intoxicant or a combination of intoxicants*] **intoxicating liquor, a con-**
27 **trolled substance, an inhalant or any combination thereof; or**

28 “(c) A driving offense in another jurisdiction that involved operating a
29 vehicle while having a blood alcohol content above that jurisdiction’s per-
30 missible blood alcohol content.

1 “(8) Shall deny the petition for a driving while under the influence of
2 intoxicants diversion agreement if the defendant participated in a driving
3 while under the influence of intoxicants diversion program or in any similar
4 alcohol or drug rehabilitation program, other than a program entered into
5 as a result of the charge for the present offense, in this state or in another
6 jurisdiction after the date the defendant filed the petition.

7 “(9) Shall deny the petition for a driving while under the influence of
8 intoxicants diversion agreement if the defendant was charged with or con-
9 victed of an offense of aggravated vehicular homicide or of murder,
10 manslaughter, criminally negligent homicide or assault that resulted from
11 the operation of a motor vehicle in this state or in another jurisdiction after
12 the date the defendant filed the petition.

13 “(10) Shall deny the petition for a driving while under the influence of
14 intoxicants diversion agreement if the defendant has been convicted of a
15 felony offense described in ORS 813.010 (5)(a).

16 “(11) For the purposes of subsection (7) of this section, may not consider
17 a conviction for a driving offense in another jurisdiction based solely on a
18 person under 21 years of age having a blood alcohol content that is lower
19 than the permissible blood alcohol content in that jurisdiction for a person
20 21 years of age or older as a prior conviction.

21 “(12) May not deny the petition for a driving while under the influence
22 of intoxicants diversion agreement solely on the basis that the defendant is
23 a member of the Armed Forces of the United States, the reserve components
24 of the Armed Forces of the United States or the National Guard and has
25 been called or demonstrates that the defendant will be called to active duty,
26 and the military service will impair the defendant’s ability to complete the
27 diversion program.

28 **“SECTION 48. The amendments to ORS 813.220 by section 47 of this**
29 **2013 Act become operative on January 2, 2016.**

30 **“SECTION 49. ORS 813.430 is amended to read:**

1 “813.430. This section establishes circumstances under which ORS 813.420
2 requires an increase in the time for suspension of driving privileges and
3 under which ORS 813.520 requires an increase in the time before the De-
4 partment of Transportation may issue a hardship permit. A person is subject
5 to an increase in suspension time under this section if any of the following
6 apply:

7 “(1) The person is presently participating in a driving while under the
8 influence of intoxicants diversion program in this state or in any similar
9 alcohol or drug rehabilitation program in this or another jurisdiction.

10 “(2) Within the five years preceding the date of arrest any of the follow-
11 ing occurred:

12 “(a) A suspension of the person’s driving privileges under ORS 813.410 or
13 482.540 (1981 Replacement Part) became effective.

14 “(b) The person was convicted of:

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

16 “(i) ORS 813.010;

17 “(ii) The statutory counterpart to ORS 813.010 in another jurisdiction; or

18 “(iii) A municipal ordinance in this state or another jurisdiction;

19 “(B) A driving under the influence of intoxicants offense in another ju-
20 risdiction that involved the impaired driving of a vehicle due to the use of
21 [*intoxicating liquor, a controlled substance, an inhalant or any combination*
22 *thereof*] **an intoxicant or a combination of intoxicants**; or

23 “(C) A driving offense in another jurisdiction that involved operating a
24 vehicle while having a blood alcohol content above that jurisdiction’s per-
25 missible blood alcohol content.

26 “(c) The person commenced participating in a driving while under the
27 influence of intoxicants diversion program in this state or in any similar
28 alcohol or drug rehabilitation program in this or another jurisdiction.

29 “(3) For the purposes of subsection (2)(b) of this section, a conviction for
30 a driving offense in another jurisdiction based solely on a person under 21

1 years of age having a blood alcohol content that is lower than the permis-
2 sible blood alcohol content in that jurisdiction for a person 21 years of age
3 or older does not constitute a prior conviction.

4 **“SECTION 50.** ORS 813.430, as amended by section 49 of this 2013 Act,
5 is amended to read:

6 “813.430. This section establishes circumstances under which ORS 813.420
7 requires an increase in the time for suspension of driving privileges and
8 under which ORS 813.520 requires an increase in the time before the De-
9 partment of Transportation may issue a hardship permit. A person is subject
10 to an increase in suspension time under this section if any of the following
11 apply:

12 “(1) The person is presently participating in a driving while under the
13 influence of intoxicants diversion program in this state or in any similar
14 alcohol or drug rehabilitation program in this or another jurisdiction.

15 “(2) Within the five years preceding the date of arrest any of the follow-
16 ing occurred:

17 “(a) A suspension of the person’s driving privileges under ORS 813.410 or
18 482.540 (1981 Replacement Part) became effective.

19 “(b) The person was convicted of:

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

21 “(i) ORS 813.010;

22 “(ii) The statutory counterpart to ORS 813.010 in another jurisdiction; or

23 “(iii) A municipal ordinance in this state or another jurisdiction;

24 “(B) A driving under the influence of intoxicants offense in another ju-
25 risdiction that involved the impaired driving of a vehicle due to the use of
26 [*an intoxicant or a combination of intoxicants*] **intoxicating liquor, a con-**
27 **trolled substance, an inhalant or any combination thereof; or**

28 “(C) A driving offense in another jurisdiction that involved operating a
29 vehicle while having a blood alcohol content above that jurisdiction’s per-
30 missible blood alcohol content.

1 “(c) The person commenced participating in a driving while under the
2 influence of intoxicants diversion program in this state or in any similar
3 alcohol or drug rehabilitation program in this or another jurisdiction.

4 “(3) For the purposes of subsection (2)(b) of this section, a conviction for
5 a driving offense in another jurisdiction based solely on a person under 21
6 years of age having a blood alcohol content that is lower than the permis-
7 sible blood alcohol content in that jurisdiction for a person 21 years of age
8 or older does not constitute a prior conviction.

9 **“SECTION 51. The amendments to ORS 813.430 by section 50 of this**
10 **2013 Act become operative on January 2, 2016.**

11 **“SECTION 52.** ORS 813.500 is amended to read:

12 “813.500. (1) If a person’s license is suspended for driving while under the
13 influence of intoxicants under ORS 813.400 and the suspension period is de-
14 termined by ORS 809.428 (2)(b) or (c), the Department of Transportation may
15 only issue a hardship permit to the person under ORS 807.240 if the person,
16 in addition to any requirement under ORS 807.240 and any applicable re-
17 quirements under ORS 807.250 and 813.520:

18 “(a) Is examined by the Oregon Health Authority to determine whether
19 the person has a problem condition involving [*alcohol, inhalants or controlled*
20 *substances*] **intoxicants** as described in ORS 813.040; and

21 “(b) Complies with the requirements of this section.

22 “(2) If the authority determines that the person has a problem condition
23 involving [*alcohol, inhalants or controlled substances*] **intoxicants**, as de-
24 scribed in ORS 813.040, the department may issue the permit to the person
25 only if both the following apply:

26 “(a) The person enrolled in a program for rehabilitation for alcoholism
27 or drug dependence approved by the authority.

28 “(b) The authority recommends, on the basis of the person’s progress in
29 the rehabilitation program, such reinstatement in writing to the department.

30 If the authority makes a recommendation under this paragraph, the authority

1 shall state specifically in the recommendation the times, places, routes and
2 days of the week minimally necessary for the person to seek or retain em-
3 ployment, to attend any alcohol or drug treatment or rehabilitation program
4 or to obtain necessary medical treatment for the person or a member of the
5 person's immediate family.

6 “(3) If the authority determines that the person does not have a problem
7 condition involving [*alcohol, inhalants or controlled substances*] **intoxicants**
8 as described in ORS 813.040, the department may issue the permit to the
9 person only if, in addition to any requirements under ORS 807.240, the person
10 enters an alcohol or drug information program approved by the authority and
11 the department determines that issuance of a permit is appropriate. If the
12 department issues a permit to a person described in this subsection, the de-
13 partment shall require, under ORS 807.240, that the person complete the
14 program as a condition of retaining the permit.

15 **“SECTION 53.** ORS 813.500, as amended by section 52 of this 2013 Act,
16 is amended to read:

17 “813.500. (1) If a person's license is suspended for driving while under the
18 influence of intoxicants under ORS 813.400 and the suspension period is de-
19 termined by ORS 809.428 (2)(b) or (c), the Department of Transportation may
20 only issue a hardship permit to the person under ORS 807.240 if the person,
21 in addition to any requirement under ORS 807.240 and any applicable re-
22 quirements under ORS 807.250 and 813.520:

23 “(a) Is examined by the Oregon Health Authority to determine whether
24 the person has a problem condition involving [*intoxicants*] **alcohol,**
25 **inhalants or controlled substances** as described in ORS 813.040; and

26 “(b) Complies with the requirements of this section.

27 “(2) If the authority determines that the person has a problem condition
28 involving [*intoxicants*] **alcohol, inhalants or controlled substances,** as
29 described in ORS 813.040, the department may issue the permit to the person
30 only if both the following apply:

1 “(a) The person enrolled in a program for rehabilitation for alcoholism
2 or drug dependence approved by the authority.

3 “(b) The authority recommends, on the basis of the person’s progress in
4 the rehabilitation program, such reinstatement in writing to the department.
5 If the authority makes a recommendation under this paragraph, the authority
6 shall state specifically in the recommendation the times, places, routes and
7 days of the week minimally necessary for the person to seek or retain em-
8 ployment, to attend any alcohol or drug treatment or rehabilitation program
9 or to obtain necessary medical treatment for the person or a member of the
10 person’s immediate family.

11 “(3) If the authority determines that the person does not have a problem
12 condition involving [*intoxicants*] **alcohol, inhalants or controlled sub-**
13 **stances** as described in ORS 813.040, the department may issue the permit
14 to the person only if, in addition to any requirements under ORS 807.240, the
15 person enters an alcohol or drug information program approved by the au-
16 thority and the department determines that issuance of a permit is appro-
17 priate. If the department issues a permit to a person described in this
18 subsection, the department shall require, under ORS 807.240, that the person
19 complete the program as a condition of retaining the permit.

20 “**SECTION 54. The amendments to ORS 813.500 by section 53 of this**
21 **2013 Act become operative on January 2, 2016.**

22 “**SECTION 55.** ORS 821.250 is amended to read:

23 “821.250. (1) A person commits the offense of permitting dangerous oper-
24 ation of a snowmobile or an all-terrain vehicle if the person is the owner or
25 other person having charge or control of a snowmobile or an all-terrain ve-
26 hicle and the person knowingly authorizes or permits any person to operate
27 the vehicle across a highway who is:

28 “(a) Incapable by reason of age, physical or mental disability; or

29 “(b) Under the influence of [*intoxicating liquor, inhalants or controlled*
30 *substances*] **an intoxicant.**

1 “(2) In addition to other penalties provided by this section, operators or
2 owners may be liable as provided under ORS 821.310.

3 “(3) The offense described in this section, permitting dangerous operation
4 of a snowmobile or an all-terrain vehicle, is a Class A traffic violation.

5 **“SECTION 56.** ORS 821.250, as amended by section 55 of this 2013 Act,
6 is amended to read:

7 “821.250. (1) A person commits the offense of permitting dangerous oper-
8 ation of a snowmobile or an all-terrain vehicle if the person is the owner or
9 other person having charge or control of a snowmobile or an all-terrain ve-
10 hicle and the person knowingly authorizes or permits any person to operate
11 the vehicle across a highway who is:

12 “(a) Incapable by reason of age, physical or mental disability; or

13 “(b) Under the influence of [*an intoxicant*] **intoxicating liquor,**
14 **inhalants or controlled substances.**

15 “(2) In addition to other penalties provided by this section, operators or
16 owners may be liable as provided under ORS 821.310.

17 “(3) The offense described in this section, permitting dangerous operation
18 of a snowmobile or an all-terrain vehicle, is a Class A traffic violation.

19 **“SECTION 57. The amendments to ORS 821.250 by section 56 of this**
20 **2013 Act become operative on January 2, 2016.**

21 **“SECTION 58. Sections 2 and 29 of this 2013 Act and the amend-**
22 **ments to ORS 801.272, 807.060, 807.250, 809.235, 809.265, 809.730, 813.010,**
23 **813.040, 813.131, 813.140, 813.150, 813.215, 813.220, 813.430, 813.500 and**
24 **821.250 by sections 4, 7, 10, 13, 16, 19, 22, 25, 31, 34, 37, 40, 43, 46, 49, 52**
25 **and 55 of this 2013 Act apply to crimes committed on or after the ef-**
26 **fective date of this 2013 Act.”.**

27