

# House Bill 4026

Sponsored by Representatives THOMPSON, GREENLICK; Representatives BARKER, CAMERON, ESQUIVEL, HUFFMAN, JENSON, KENNEMER, KRIEGER, RICHARDSON, WEIDNER, WHISNANT, WHITSETT (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires providers of ignition interlock devices to notify agency or organization that conducted person's diagnostic assessment of any negative reports downloaded from ignition interlock device.

Requires installation of ignition interlock device equipped with camera or similar technology if court does not terminate diversion agreement following negative report.

## A BILL FOR AN ACT

1 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.602.

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

3 **SECTION 1. Sections 2 and 3 of this 2014 Act are added to and made a part of ORS**  
4 **chapter 813.**

5 **SECTION 2. (1) As used in this section, "negative report" includes a report of tampering**  
6 **with an ignition interlock device, unauthorized removal of the ignition interlock device,**  
7 **warnings, lockouts or test violations recorded by the ignition interlock device.**

8 **(2) After an ignition interlock device is installed as a condition of a driving while under**  
9 **the influence of intoxicants diversion agreement under ORS 813.602 (3), the provider that**  
10 **installed the device shall notify the agency or organization, designated by the court under**  
11 **ORS 813.260, that conducted the person's diagnostic assessment that the device has been**  
12 **installed. Notice of the installation must be given within seven business days of installing the**  
13 **ignition interlock device.**

14 **(3) Each time a provider has access to an ignition interlock device that the provider in-**  
15 **stalled, the provider shall download all reports recorded on the device. If the provider**  
16 **downloads a negative report, the provider shall notify the agency or organization that con-**  
17 **ducted the person's diagnostic assessment. The provider must give notice of the negative**  
18 **report within seven business days of downloading the negative report.**

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

21 **(a) To the person's treatment program provider, if any, and to the district attorney or**  
22 **city attorney; or**

23 **(b) If the person is not in a treatment program, to the court that ordered the installation**  
24 **of the ignition interlock device and to the district attorney or city attorney.**

25 **(5) An agency or organization shall give notice as provided under subsection (4) of this**  
26 **section within seven business days of receiving notice of the negative report under sub-**  
27 **section (3) of this section.**

28 **SECTION 3. (1) As used in this section, "negative report" has the meaning given that**  
29

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 term in section 2 of this 2014 Act.

2 (2) Subject to subsection (3) of this section, if a court does not terminate a person's  
 3 driving while under the influence of intoxicants diversion agreement following a hearing un-  
 4 der ORS 813.255, the court shall order the person to install an ignition interlock device that  
 5 complies with the rules adopted by the Department of Transportation under subsection (4)  
 6 of this section.

7 (3) Subsection (2) of this section applies only if:

8 (a) One of the stated reasons for the proposed termination was that the person's ignition  
 9 interlock device produced a negative report; and

10 (b) The person does not currently have an ignition interlock device installed that com-  
 11 plies with the rules adopted by the department under subsection (4) of this section.

12 (4) The department shall adopt rules that specify requirements for ignition interlock de-  
 13 vices that are required to be installed under this section and shall publish a list of devices  
 14 that meet the requirements. The devices listed must:

15 (a) Meet the requirements described in ORS 813.600; and

16 (b) Be capable of identifying the user of the device by using a camera or other technol-  
 17 ogy.

18 **SECTION 4.** ORS 813.602 is amended to read:

19 813.602. (1) Except as provided in subsection (2) of this section, when a person is convicted of  
 20 driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-  
 21 nance, the Department of Transportation, in addition to any other requirement, shall require that  
 22 the person install and use an approved ignition interlock device in any vehicle operated by the  
 23 person:

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

26 (b) For a first conviction, for one year after the ending date of the suspension or revocation  
 27 caused by the conviction. Violation of the condition imposed under this paragraph is a Class A  
 28 traffic violation.

29 (c) For a second or subsequent conviction, for two years after the ending date of the suspension  
 30 or revocation caused by the conviction. Violation of the condition imposed under this paragraph is  
 31 a Class A traffic violation.

32 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the  
 33 department, in addition to any other requirement, shall require that the person install and use an  
 34 approved ignition interlock device in any vehicle operated by the person for five years after the  
 35 ending date of the longest running suspension or revocation caused by any of the convictions. Vi-  
 36 olation of the condition imposed under this subsection is a Class A traffic violation. A person is  
 37 subject to this subsection when the person is convicted of:

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

40 (A) Any degree of murder.

41 (B) Manslaughter in the first or second degree.

42 (C) Criminally negligent homicide.

43 (D) Assault in the first degree.

44 (b) Aggravated vehicular homicide.

45 (c) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal

1 ordinance and the person's driving privileges are revoked under ORS 809.235 (1)(b) and later ordered  
2 restored under ORS 809.235 (4).

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

9 (b) A court may exempt a person from the condition in a diversion agreement to install and use  
10 an ignition interlock device if the court determines that the person meets the requirements for a  
11 medical exemption in accordance with rules adopted by the department under this section. A person  
12 granted a medical exemption under this paragraph shall carry proof of the medical exemption with  
13 the person while operating any vehicle.

14 (4) Except as provided in subsection (5) of this section, if an ignition interlock [system] **device**  
15 is ordered or required under subsection (1), (2) or (3) of this section, the person so ordered or re-  
16 quired shall pay to the provider the reasonable costs of leasing, installing and maintaining the de-  
17 vice. A payment schedule may be established for the person by the department.

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

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

27 (7) At the end of the suspension or revocation resulting from the conviction, the department  
28 shall suspend the driving privileges or right to apply for driving privileges of a person who has not  
29 submitted proof to the department that an ignition interlock device has been installed or who  
30 tampers with an ignition interlock device after it has been installed.

31 (8) If the department imposes a suspension under subsection (7) of this section for failing to  
32 submit proof of installation, the suspension continues until the department receives proof that the  
33 ignition interlock device has been installed. If the department does not receive proof that the ig-  
34 nition interlock device has been installed, the suspension shall continue for:

35 (a) One year after the ending date of the suspension resulting from the first conviction;

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

38 (c) Five years after the ending date of the longest running suspension or revocation resulting  
39 from a conviction described in subsection (2) of this section.

40 (9) If the department imposes a suspension under subsection (7) of this section for tampering  
41 with an ignition interlock device, the suspension continues until:

42 (a) One year after the ending date of the suspension resulting from the first conviction;

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

45 (c) Five years after the ending date of the longest running suspension or revocation resulting

1 from a conviction described in subsection (2) of this section.

2 (10) A person whose driving privileges or right to apply for privileges is suspended under sub-  
3 section (7) of this section is entitled to administrative review, as described in ORS 809.440, of the  
4 action.

5 (11) The department shall adopt rules permitting medical exemptions from the requirements of  
6 installation and use of an ignition interlock device under subsections (1), (2) and (3) of this section.

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

12 **SECTION 5. Sections 2 and 3 of this 2014 Act and the amendments to ORS 813.602 by**  
13 **section 4 of this 2014 Act apply to conduct occurring on or after the effective date of this**  
14 **2014 Act.**

15