

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 4026**

1 On page 2 of the printed A-engrossed bill, line 14, delete “shall” and in-  
2 sert “may”.

3 Delete lines 34 through 45 and delete page 3.

4 On page 4, delete lines 1 through 27 and insert:

5 **“SECTION 4. ORS 813.602 is amended to read:**

6 “813.602. (1) Except as provided in subsection (2) of this section, when a  
7 person is convicted of driving while under the influence of intoxicants in  
8 violation of ORS 813.010 or of a municipal ordinance, the Department of  
9 Transportation, in addition to any other requirement, shall require that the  
10 person install and use an approved ignition interlock device in any vehicle  
11 operated by the person:

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

14 “(b) For a first conviction, for one year after the ending date of the sus-  
15 pension or revocation caused by the conviction. Violation of the condition  
16 imposed under this paragraph is a Class A traffic violation.

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

20 “(2) When a person is convicted of a crime or multiple crimes as described  
21 in this subsection, the department, in addition to any other requirement,  
22 shall require that the person install and use an approved ignition interlock

1 device in any vehicle operated by the person for five years after the ending  
2 date of the longest running suspension or revocation caused by any of the  
3 convictions. Violation of the condition imposed under this subsection is a  
4 Class A traffic violation. A person is subject to this subsection when the  
5 person is convicted of:

6 “(a) Driving while under the influence of intoxicants in violation of ORS  
7 813.010 or of a municipal ordinance and any of the following crimes as part  
8 of the same criminal episode:

9 “(A) Any degree of murder.

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

11 “(C) Criminally negligent homicide.

12 “(D) Assault in the first degree.

13 “(b) Aggravated vehicular homicide.

14 “(c) Driving while under the influence of intoxicants in violation of ORS  
15 813.010 or of a municipal ordinance and the person’s driving privileges are  
16 revoked under ORS 809.235 (1)(b) and later ordered restored under ORS  
17 809.235 (4).

18 “(3)(a) Except as provided in paragraph [(b)] (c) of this subsection, [*the*  
19 *court shall require*] as a condition of a driving while under the influence of  
20 intoxicants diversion agreement:

21 “(A) **The court shall require** that an approved ignition interlock device  
22 be installed and used in any vehicle operated by the person during the period  
23 of the agreement when the person has driving privileges[.] **if the person**  
24 **submitted to a chemical test of the person’s breath or blood as re-**  
25 **quired under ORS 813.100 and the test disclosed a blood alcohol content**  
26 **of 0.15 percent or more by weight.**

27 “(B) **The court may require that an approved ignition interlock de-**  
28 **vice be installed in any vehicle operated by the person during the pe-**  
29 **riod of the agreement when the person has driving privileges if:**

30 “(i) **The person submitted to a chemical test of the person’s breath**

1 or blood as required under ORS 813.100 and the test disclosed a blood  
2 alcohol content between 0.00 and 0.15 percent by weight; and

3 “(ii) The court finds a compelling public safety reason to order the  
4 defendant to install an approved ignition interlock device.

5 “(C) The court may not require that an approved ignition interlock  
6 device be installed in any vehicle operated by the person during the  
7 period of the agreement when the person has driving privileges if the  
8 person submitted to a chemical test of the person’s breath or blood  
9 as required under ORS 813.100 and the test disclosed a blood alcohol  
10 content of 0.00 percent by weight.

11 “(b) In addition to any action taken under ORS 813.255, violation of the  
12 condition imposed under this subsection is a Class A traffic violation.

13 “[b)] (c) A court may exempt a person from the condition in a diversion  
14 agreement to install and use an ignition interlock device if the court deter-  
15 mines that the person meets the requirements for a medical exemption in  
16 accordance with rules adopted by the department under this section. A per-  
17 son granted a medical exemption under this paragraph shall carry proof of  
18 the medical exemption with the person while operating any vehicle.

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

24 “(5) The department may waive, in whole or in part, or defer the  
25 defendant’s responsibility to pay all or part of the costs under subsection (4)  
26 of this section if the defendant meets the criteria for indigence established  
27 for waiving or deferring such costs under subsection (6) of this section. If the  
28 defendant’s responsibility for costs is waived, then notwithstanding ORS  
29 813.270, the costs described in subsection (4) of this section must be paid from  
30 the Intoxicated Driver Program Fund.

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

6       “(7) At the end of the suspension or revocation resulting from the con-  
7 viction, the department shall suspend the driving privileges or right to apply  
8 for driving privileges of a person who has not submitted proof to the de-  
9 partment that an ignition interlock device has been installed or who tampers  
10 with an ignition interlock device after it has been installed.

11       “(8) If the department imposes a suspension under subsection (7) of this  
12 section for failing to submit proof of installation, the suspension continues  
13 until the department receives proof that the ignition interlock device has  
14 been installed. If the department does not receive proof that the ignition  
15 interlock device has been installed, the suspension shall continue for:

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

18       “(b) Except as provided in paragraph (c) of this subsection, two years af-  
19 ter the ending date of the suspension resulting from a second or subsequent  
20 conviction; or

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

24       “(9) If the department imposes a suspension under subsection (7) of this  
25 section for tampering with an ignition interlock device, the suspension con-  
26 tinues until:

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

29       “(b) Except as provided in paragraph (c) of this subsection, two years af-  
30 ter the ending date of the suspension resulting from a second or subsequent

1 conviction; or

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

5 “(10) A person whose driving privileges or right to apply for privileges is  
6 suspended under subsection (7) of this section is entitled to administrative  
7 review, as described in ORS 809.440, of the action.

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

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

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