

D R A F T

SUMMARY

Defines “sobering facility.” Extends civil and criminal immunity to sobering facilities for actions taken in good faith, on probable cause and without malice. Allows police to take intoxicated person to sobering facility. Protects from disclosure without person’s consent records of admission to sobering facility.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to substance abuse treatment; creating new provisions; amending
3 ORS 430.306, 430.399 and 430.401; and declaring an emergency.

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

5 **SECTION 1.** ORS 430.306 is amended to read:

6 430.306. As used in ORS 430.315, 430.335, 430.342, 430.397, 430.399, **430.401**,
7 430.402, 430.420 and 430.630, unless the context requires otherwise:

8 (1) “Alcoholic” means any person who has lost the ability to control the
9 use of alcoholic beverages, or who uses alcoholic beverages to the extent that
10 the health of the person or that of others is substantially impaired or en-
11 dangered or the social or economic function of the person is substantially
12 disrupted. An alcoholic may be physically dependent, a condition in which
13 the body requires a continuing supply of alcohol to avoid characteristic
14 withdrawal symptoms, or psychologically dependent, a condition character-
15 ized by an overwhelming mental desire for continued use of alcoholic
16 beverages.

17 [(2) “Applicant” means a city, county or any combination thereof.]

18 [(3) “Authority” means the Oregon Health Authority.]

1 [(4)] (2) “Detoxification center” means a publicly or privately operated
2 profit or nonprofit facility approved by the authority that provides emer-
3 gency care or treatment for alcoholics or drug-dependent persons.

4 [(5)] (3) “Director of the treatment facility” means the person in charge
5 of treatment and rehabilitation programs at a treatment facility.

6 [(6)] (4) “Drug-dependent person” means one who has lost the ability to
7 control the personal use of controlled substances or other substances with
8 abuse potential, or who uses such substances or controlled substances to the
9 extent that the health of the person or that of others is substantially im-
10 paired or endangered or the social or economic function of the person is
11 substantially disrupted. A drug-dependent person may be physically depend-
12 ent, a condition in which the body requires a continuing supply of a drug
13 or controlled substance to avoid characteristic withdrawal symptoms, or
14 psychologically dependent, a condition characterized by an overwhelming
15 mental desire for continued use of a drug or controlled substance.

16 [(7)] (5) “Halfway house” means a publicly or privately operated profit
17 or nonprofit, residential facility approved by the authority that provides
18 rehabilitative care and treatment for alcoholics or drug-dependent persons.

19 [(8)] (6) “Local planning committee” means a local planning committee for
20 alcohol and drug prevention and treatment services appointed or designated
21 by the county governing body under ORS 430.342.

22 (7) **“Sobering facility” means a facility operated solely to provide**
23 **shelter for a person who is intoxicated until the person regains**
24 **sobriety.**

25 [(9)] (8) “Treatment facility” includes outpatient facilities, inpatient fa-
26 cilities and other facilities the authority determines suitable and that pro-
27 vide services that meet minimum standards established under ORS 430.357,
28 any of which may provide diagnosis and evaluation, medical care,
29 detoxification, social services or rehabilitation for alcoholics or drug-
30 dependent persons and which operate in the form of a general hospital, a
31 state hospital, a foster home, a hostel, a clinic or other suitable form ap-

1 proved by the authority.

2 **SECTION 2.** ORS 430.399 is amended to read:

3 430.399. (1) Any person who is intoxicated or under the influence of con-
4 trolled substances in a public place may be taken or sent home, **or taken**
5 **to a sobering facility** or to a treatment facility by the police. However, if
6 the person is incapacitated, the health of the person appears to be in imme-
7 diate danger, or the police have reasonable cause to believe the person is
8 dangerous to self or to any other person, the person shall be taken by the
9 police to an appropriate treatment facility. A person shall be deemed inca-
10 pacitated when in the opinion of the police officer or director of the treat-
11 ment facility the person is unable to make a rational decision as to
12 acceptance of assistance.

13 (2) The director of the treatment facility shall determine whether a person
14 shall be admitted as a patient, or referred to another treatment facility or
15 denied referral or admission. If the person is incapacitated or the health of
16 the person appears to be in immediate danger, or if the director has reason-
17 able cause to believe the person is dangerous to self or to any other person,
18 the person must be admitted. The person shall be discharged within 48 hours
19 unless the person has applied for voluntary admission to the treatment fa-
20 cility.

21 (3) In the absence of any appropriate treatment facility **or sobering fa-**
22 **cility**, an intoxicated person or a person under the influence of controlled
23 substances who would otherwise be taken by the police to a treatment fa-
24 cility **or sobering facility** may be taken to the city or county jail where the
25 person may be held until no longer intoxicated, under the influence of con-
26 trolled substances or incapacitated.

27 (4) An intoxicated person or person under the influence of controlled
28 substances, when taken into custody by the police for a criminal offense,
29 shall immediately be taken to the nearest appropriate treatment facility
30 when the condition of the person requires emergency medical treatment.

31 (5) The records of a [*patient*] **person** at a treatment facility **or sobering**

1 **facility** may not, **without the person's consent**, be revealed to any person
2 other than the director and staff of the treatment facility [*without the consent*
3 *of the patient*] **or sobering facility**. A [*patient's*] **person's** request that no
4 disclosure be made of admission to a treatment facility **or sobering facility**
5 shall be honored unless the [*patient*] **person** is incapacitated or disclosure
6 of admission is required by ORS 430.397.

7 **SECTION 3.** ORS 430.401, as amended by section 47, chapter 45, Oregon
8 Laws 2014, is amended to read:

9 430.401. No peace officer, treatment facility **or sobering facility** and
10 staff, physician, physician assistant, nurse practitioner or judge shall be held
11 criminally or civilly liable for actions pursuant to ORS 430.315, 430.335,
12 430.397 to 430.401 and 430.402 provided the actions are in good faith, on
13 probable cause and without malice.

14 **SECTION 4.** **The amendments to ORS 430.401 by section 3 of this**
15 **2015 Act apply only to causes of action arising on or after the effective**
16 **date of this 2015 Act.**

17 **SECTION 5.** **This 2015 Act being necessary for the immediate pres-**
18 **ervation of the public peace, health and safety, an emergency is de-**
19 **clared to exist, and this 2015 Act takes effect on its passage.**

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