

D R A F T

SUMMARY

Allows persons authorized to engage in medical use of marijuana to continue to use medical marijuana while participating in driving while under influence of intoxicants diversion agreement.

A BILL FOR AN ACT

Relating to driving while under the influence of intoxicants diversion agreements; creating new provisions; and amending ORS 813.200.

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

SECTION 1. ORS 813.200 is amended to read:

813.200. (1) The court shall inform at arraignment a defendant charged with the offense of driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance conforming thereto that a diversion agreement may be available if the defendant meets the criteria set out in ORS 813.215 and files with the court a petition for a driving while under the influence of intoxicants diversion agreement.

(2) The petition forms for a driving while under the influence of intoxicants diversion agreement shall be available to a defendant at the court.

(3) The form of the petition for a driving while under the influence of intoxicants diversion agreement and the information and blanks contained therein shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements adopted by the Supreme Court.

(4) In addition to any other information required by the Supreme Court

1 to be contained in a petition for a driving while under the influence of
2 intoxicants diversion agreement, the petition shall include:

3 (a) A plea of guilty or no contest to the charge of driving while under the
4 influence of intoxicants signed by the defendant;

5 (b) An agreement by the defendant to complete at an agency or organ-
6 ization designated by the city or state court a diagnostic assessment to de-
7 termine the possible existence and degree of an alcohol or drug abuse
8 problem;

9 (c) An agreement by the defendant to complete, at defendant's own ex-
10 pense based on defendant's ability to pay, the program of treatment indicated
11 as necessary by the diagnostic assessment;

12 (d) Except as provided in subsection (5) of this section, an agreement by
13 the defendant to not use intoxicants during the diversion period and to
14 comply fully with the laws of this state designed to discourage the use of
15 intoxicants;

16 (e) A notice to the defendant that the diversion agreement will be con-
17 sidered to be violated if the court receives notice that the defendant at any
18 time during the diversion period committed the offense of driving while un-
19 der the influence of intoxicants or committed a violation of ORS 811.170;

20 (f) An agreement by the defendant to keep the court advised of the
21 defendant's current mailing address at all times during the diversion period;

22 (g) A waiver by the defendant of any former jeopardy rights under the
23 federal and state Constitutions and ORS 131.505 to 131.525 in any subsequent
24 action upon the charge or any other offenses based upon the same criminal
25 episode;

26 (h) A sworn statement, as defined in ORS 162.055, by the defendant cer-
27 tifying that the defendant meets the criteria set out in ORS 813.215 to be
28 eligible to enter into the driving while under the influence of intoxicants
29 diversion agreement;

30 (i) An agreement by the defendant to pay court-appointed attorney fees
31 as determined by the court; and

1 (j) An agreement by the defendant to pay restitution if ordered by the
2 court under ORS 137.108.

3 (5) A person may use intoxicants during the diversion period if:

4 (a) The person consumes sacramental wine given or provided as part of
5 a religious rite or service;

6 (b) The person has a valid prescription for a substance and the person
7 takes the substance as directed; [or]

8 (c) The person is using a nonprescription drug, as defined in ORS 689.005,
9 in accordance with the directions for use that are printed on the label for
10 that nonprescription drug[.]; or

11 **(d) The person uses medical marijuana and holds a registry iden-**
12 **tification card issued under ORS 475.309 or has applied for a registry**
13 **identification card pursuant to ORS 475.309.**

14 **SECTION 2. The amendments to ORS 813.200 by section 1 of this**
15 **2015 Act apply to diversion agreements entered into on or after the**
16 **effective date of this 2015 Act.**

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