

# House Bill 2347

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

## 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**.

Extends suspension of driving privileges beyond end of suspension or revocation period if person fails to submit proof of installation or maintain installation of required ignition interlock device.  
Reorganizes laws related to ignition interlock devices.

## A BILL FOR AN ACT

1  
2 Relating to driving while under the influence of intoxicants; creating new provisions; and amending  
3 ORS 813.602, 813.604 and 813.608.

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

## REQUIRED INSTALLATION PERIOD

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8 **SECTION 1.** ORS 813.602 is amended to read:

9 813.602. (1) Except as provided in subsection (2) of this section, when a person is convicted of  
10 driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-  
11 nance, the Department of Transportation, in addition to any other requirement, shall require that  
12 the person [*install*] **have installed** and use an approved ignition interlock device in any vehicle op-  
13 erated by the person:

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

16 (b) For a first conviction, for one year after the ending date of the suspension or revocation  
17 caused by the conviction. Violation of the condition imposed under this paragraph is a Class A  
18 traffic violation. **The ignition interlock device must be installed and operational by the ending**  
19 **date of the suspension or revocation caused by the conviction.**

20 (c) For a second or subsequent conviction, for two years after the ending date of the suspension  
21 or revocation caused by the conviction. Violation of the condition imposed under this paragraph is  
22 a Class A traffic violation. **The ignition interlock device must be installed and operational by**  
23 **the ending date of the suspension or revocation caused by the conviction.**

24 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the  
25 department, in addition to any other requirement, shall require that the person [*install*] **have in-**  
26 **stalled** and use an approved ignition interlock device in any vehicle operated by the person for five  
27 years after the ending date of the longest running suspension or revocation caused by any of the  
28 convictions. Violation of the condition imposed under this subsection is a Class A traffic violation.  
29 **The ignition interlock device must be installed and operational by the ending date of the**  
30 **longest running suspension or revocation caused by any of the convictions.** A person is subject

**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 to this subsection when the person is convicted of:

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

4 (A) Any degree of murder.

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

6 (C) Criminally negligent homicide.

7 (D) Assault in the first degree.

8 (b) Aggravated vehicular homicide.

9 (c) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal  
10 ordinance and the person's driving privileges are revoked under ORS 809.235 (1)(b) and later ordered  
11 restored under ORS 809.235 (4).

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

18 (b) A court may exempt a person from the condition in a diversion agreement [*to install and*  
19 *use*] **that** an ignition interlock device **be installed and used** if the court determines that the person  
20 meets the requirements for a medical exemption in accordance with rules adopted by the department  
21 under this section. A person granted a medical exemption under this paragraph shall carry proof  
22 of the medical exemption with the person while operating any vehicle.

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

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

32 [*(6) The department, by rule, shall establish criteria and procedures it will use for qualification to*  
33 *wave or defer costs described under subsection (4) of this section for indigence. The criteria must be*  
34 *consistent with the standards for indigence adopted by the federal government for purposes of the*  
35 *Supplemental Nutrition Assistance Program.*]

36 [*(7) At the end of the suspension or revocation resulting from the conviction, the department shall*  
37 *suspend the driving privileges or right to apply for driving privileges of a person who has not sub-*  
38 *mitted proof to the department that an ignition interlock device has been installed or who tampers with*  
39 *an ignition interlock device after it has been installed.*]

40 [*(8) If the department imposes a suspension under subsection (7) of this section for failing to submit*  
41 *proof of installation, the suspension continues until the department receives proof that the ignition*  
42 *interlock device has been installed. If the department does not receive proof that the ignition interlock*  
43 *device has been installed, the suspension shall continue for:]*

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

45 [(b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the

1 suspension resulting from a second or subsequent conviction; or]

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

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

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

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

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

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

14 [(11)] (4) The department shall adopt rules permitting medical exemptions from the requirements  
15 of installation and use of an ignition interlock device under [subsections (1), (2) and (3) of] this sec-  
16 tion.

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

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23 **WAIVER OF COSTS**

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25 **SECTION 2.** Sections 3 to 5 of this 2015 Act are added to and made a part of ORS chapter  
26 813.

27 **SECTION 3.** (1) Except as provided in subsection (2) of this section, if an ignition inter-  
28 lock device is required under ORS 813.602, the person so required shall pay to the provider  
29 the reasonable costs of leasing, installing and maintaining the device. A payment schedule  
30 may be established for the person by the Department of Transportation.

31 (2) The department may waive, in whole or in part, or defer the defendant's responsibility  
32 to pay all or part of the costs under subsection (1) of this section if the defendant meets the  
33 criteria for indigence established for waiving or deferring such costs under subsection (4) of  
34 this section. If the defendant's responsibility for costs is waived, then notwithstanding ORS  
35 813.270, the costs described in subsection (1) of this section must be paid from the  
36 Intoxicated Driver Program Fund.

37 (3) The agency or organization that conducted the screening interview under ORS 813.021  
38 or the diagnostic assessment required under ORS 813.200 shall inform the person undergoing  
39 the interview or assessment of the possibility that the department may waive, in whole or  
40 in part, or defer the person's responsibility to pay all or part of the costs under subsection  
41 (1) of this section as described in subsection (2) of this section.

42 (4) The department, by rule, shall establish criteria and procedures it will use for quali-  
43 fication to waive or defer costs described under subsection (1) of this section for indigence.  
44 The criteria must be consistent with the standards for indigence adopted by the federal  
45 government for purposes of the Supplemental Nutrition Assistance Program.

**DRIVING PRIVILEGE SUSPENSION RELATED TO  
IGNITION INTERLOCK DEVICES**

**SECTION 4. (1) The Department of Transportation shall suspend driving privileges or the right to apply for driving privileges if a person convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance does not comply with the requirements of ORS 813.602 (1) or (2). Suspension under this subsection applies to any of the following:**

**(a) A person who, at the end of the suspension or revocation resulting from the conviction, fails to submit proof to the department that an ignition interlock device has been installed. The suspension under this subsection for failure to submit proof of installation shall continue until the department receives proof that the ignition interlock device has been installed.**

**(b) A person who fails to maintain installation of an ignition interlock device for the period required under ORS 813.602 (1) or (2). The suspension under this subsection for failure to maintain installation of an ignition interlock device shall continue until the department receives proof that the ignition interlock device has been installed or until the device is no longer required, whichever occurs first.**

**(c) A person who tampers with an ignition interlock device after it has been installed. The suspension under this subsection for tampering with an ignition interlock device continues until:**

**(A) One year after the ending date of the suspension resulting from the first conviction;**

**(B) Except as provided in subparagraph (C) of this paragraph, two years after the ending date of the suspension resulting from a second or subsequent conviction; or**

**(C) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (2).**

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

**NOTICE OF IGNITION INTERLOCK DEVICE  
INSTALLATION, REMOVAL OR TAMPERING**

**SECTION 5. When a person is required to install an ignition interlock device under ORS 813.602 (3), the provider of the device shall provide notice of any installation or removal of the device or any tampering with the device to the court that required installation of the device or to the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025.**

**CONFORMING AMENDMENTS**

**SECTION 6. ORS 813.604 is amended to read:**

**813.604. (1) When a court orders installation of an ignition interlock device pursuant to ORS 813.602, the court shall send a copy of the order to the Department of Transportation. The department shall note the requirement on the driving record of the person required to [install] have the**

1 device **installed**.

2 (2) The department may not issue a hardship permit under ORS 807.240 to any person who is  
3 ordered to [*install*] **have** an ignition interlock device **installed** on the person's vehicle until the  
4 person furnishes the department satisfactory proof that the device has been installed on any vehicle  
5 owned or operated by the person. The department shall determine by rule what constitutes satis-  
6 factory proof under this subsection.

7 (3) When the department issues a hardship permit to a person who is required to have an ig-  
8 nition interlock device, the department shall note on the permit that the device is required. The  
9 notation constitutes a limitation on the permit and a person who violates the limitation is  
10 punishable as provided in ORS 811.182 for criminal driving while suspended or revoked.

11 **SECTION 7.** ORS 813.608 is amended to read:

12 813.608. (1) A person commits the offense of knowingly furnishing a motor vehicle without an  
13 ignition interlock device to someone who is not authorized to drive such a vehicle if the person  
14 rents, leases, lends or otherwise furnishes a motor vehicle to someone the person knows to have  
15 been ordered or required under ORS 813.602, to [*install*] **have** an ignition interlock device  
16 **installed**, and the motor vehicle is not equipped with such a device that is in working order.

17 (2) The offense described in this section, knowingly furnishing a motor vehicle without an ig-  
18 nition interlock device to someone who is not authorized to drive such a vehicle, is a Class A traffic  
19 violation.

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21 **APPLICABILITY**

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23 **SECTION 8.** Sections 3 to 5 of this 2015 Act and the amendments to ORS 813.602 by sec-  
24 tion 1 of this 2015 Act apply to offenses that occur on or after the effective date of this 2015  
25 Act.

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27 **CAPTIONS**

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29 **SECTION 9.** The unit captions used in this 2015 Act are provided only for the convenience  
30 of the reader and do not become part of the statutory law of this state or express any leg-  
31 islative intent in the enactment of this 2015 Act.

