

House Bill 2660

Sponsored by Representative OLSON, Senator PROZANSKI; Representatives BUCKLEY, DAVIS, DOHERTY, ESQUIVEL, GALLEGOS, HUFFMAN, LIVELY (Presession 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**.

Provides court discretion to order person participating in driving while under influence of intoxicants diversion agreement to install ignition interlock device if person submitted to chemical test of person's breath or blood and test disclosed blood alcohol content below 0.10 percent by weight.

Provides exemption to ignition interlock device requirement if person submitted to chemical test of person's breath, blood or urine as required and test disclosed blood alcohol content of 0.00 percent by weight.

Reorganizes statutes 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.

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

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

6 813.602. (1) [*Except as provided in*] **Subject to** subsection (2) of this section **and except as**
7 **provided in subsection (5) of this section**, when a person is convicted of driving while under the
8 influence of intoxicants in 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 person [*install*] **have**
10 **installed** and [*use*] **be using** an approved ignition interlock device in any vehicle operated by the
11 person:

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

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

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

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

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

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 (A) Any degree of murder.
- 2 (B) Manslaughter in the first or second degree.
- 3 (C) Criminally negligent homicide.
- 4 (D) Assault in the first degree.

5 (b) Aggravated vehicular homicide.

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

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

11 **(A) The court shall require** that an approved ignition interlock device be installed and used
 12 in any vehicle operated by the person during the period of the agreement when the person has
 13 driving privileges[.] **if:**

14 **(i) The person submitted to a chemical test of the person's breath or blood as required**
 15 **under ORS 813.100 and the test disclosed a blood alcohol content of 0.10 percent or more by**
 16 **weight; or**

17 **(ii) The person refused to submit to a chemical test of the person's breath or blood.**

18 **(B) The court may require that an approved ignition interlock device be installed and**
 19 **used in any vehicle operated by the person during the period of the agreement when the**
 20 **person has driving privileges if the person submitted to a chemical test of the person's**
 21 **breath or blood as required under ORS 813.100 and the test disclosed a blood alcohol content**
 22 **below 0.10 percent by weight.**

23 **(C) The court may not require that an approved ignition interlock device be installed and**
 24 **used in any vehicle operated by the person during the period of the agreement if the person**
 25 **submitted to a chemical test of the person's breath, blood or urine as required under ORS**
 26 **813.100 or 813.131 and the test disclosed a blood alcohol content of 0.00 percent by weight.**

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

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

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

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

43 [(6) *The department, by rule, shall establish criteria and procedures it will use for qualification to*
 44 *wave or defer costs described under subsection (4) of this section for indigence. The criteria must be*
 45 *consistent with the standards for indigence adopted by the federal government for purposes of the*

1 *Supplemental Nutrition Assistance Program.]*

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

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

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

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

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

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

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

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

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

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

25 *[(11)]* (4) The department shall adopt rules permitting medical exemptions from the requirements
 26 of installation and use of an ignition interlock device under *[subsections (1), (2) and (3) of]* this sec-
 27 tion.

28 **(5) A person convicted of driving while under the influence of intoxicants in violation of**
 29 **ORS 813.010 or of a municipal ordinance is not required to install and use an ignition inter-**
 30 **lock device if the person submitted to a chemical test of the person's breath, blood or urine**
 31 **as required under ORS 813.100 or 813.131 and the test disclosed a blood alcohol content of 0.00**
 32 **percent by weight.**

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

38 **SECTION 2. Sections 3 to 5 of this 2015 Act are added to and made a part of ORS chapter**
 39 **813.**

40 **SECTION 3. Fee waiver. (1) Except as provided in subsection (2) of this section, if an ig-**
 41 **nitiation interlock device is ordered or required under ORS 813.602, the person so ordered or**
 42 **required shall pay to the provider the reasonable costs of leasing, installing and maintaining**
 43 **the device. A payment schedule may be established for the person by the Department of**
 44 **Transportation.**

45 **(2) The department may waive, in whole or in part, or defer the defendant's responsibility**

1 to pay all or part of the costs under subsection (1) of this section if the defendant meets the
 2 criteria for indigence established for waiving or deferring such costs under subsection (3) of
 3 this section. If the defendant's responsibility for costs is waived, then notwithstanding ORS
 4 813.270, the costs described in subsection (1) of this section must be paid from the
 5 Intoxicated Driver Program Fund.

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

10 **SECTION 4. Suspension of driving privileges.** (1) At the end of the suspension or revo-
 11 cation resulting from a conviction for driving while under the influence of intoxicants in vi-
 12 olation of ORS 813.010 or of a municipal ordinance, the Department of Transportation shall
 13 suspend the driving privileges or right to apply for driving privileges of a person who has not
 14 submitted proof to the department that an ignition interlock device has been installed in any
 15 vehicle operated by the person or who tampers with an ignition interlock device after it has
 16 been installed.

17 (2) If the department imposes a suspension under subsection (1) of this section for failing
 18 to submit proof of installation, the suspension continues until the department receives proof
 19 that the ignition interlock device has been installed. If the department does not receive proof
 20 that the ignition interlock device has been installed, the suspension shall continue for:

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

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

24 (c) Five years after the ending date of the longest running suspension or revocation re-
 25 sulting from a conviction described in ORS 813.602 (2).

26 (3) If the department imposes a suspension under subsection (1) of this section for
 27 tampering with an ignition interlock device, the suspension continues until:

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

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

31 (c) Five years after the ending date of the longest running suspension or revocation re-
 32 sulting from a conviction described in ORS 813.602 (2).

33 (4) A person whose driving privileges or right to apply for privileges is suspended under
 34 subsection (1) of this section is entitled to administrative review, as described in ORS 809.440.

35 **SECTION 5. Notice of ignition interlock device installation.** When a person is required
 36 to install an ignition interlock device under ORS 813.602 (3), the provider of the device shall
 37 provide notice of any installation or removal of the device or any tampering with the device
 38 to the court that ordered installation of the device or to the court's designee, including but
 39 not limited to an agency or organization certified by the Oregon Health Authority under ORS
 40 813.025.

41 **SECTION 6. Captions.** The section captions used in this 2015 Act are provided only for
 42 the convenience of the reader and do not become part of the statutory law of this state or
 43 express any legislative intent in the enactment of this 2015 Act.

44 **SECTION 7. Applicability.** Sections 2 to 5 of this 2015 Act and the amendments to ORS
 45 813.602 by section 1 of this 2015 Act apply to offenses occurring on or after the effective date

1 **of this 2015 Act.**

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