

A-Engrossed
House Bill 2936

Ordered by the House April 28
Including House Amendments dated April 28

Sponsored by COMMITTEE ON HEALTH CARE (at the request of The Grants Pass Sobering Center)

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.

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 ORS 430.306, 430.399 and
3 430.401; 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**, 430.402, 430.420 and
7 430.630, unless the context requires otherwise:

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

15 [(2) "*Applicant*" means a city, county or any combination thereof.]

16 [(3) "*Authority*" means the Oregon Health Authority.]

17 [(4)] (2) "Detoxification center" means a publicly or privately operated profit or nonprofit facil-
18 ity approved by the authority that provides emergency care or treatment for alcoholics or drug-
19 dependent persons.

20 [(5)] (3) "Director of the treatment facility" means the person in charge of treatment and reha-
21 bilitation programs at a treatment facility.

22 [(6)] (4) "Drug-dependent person" means one who has lost the ability to control the personal use
23 of controlled substances or other substances with abuse potential, or who uses such substances or
24 controlled substances to the extent that the health of the person or that of others is substantially
25 impaired or endangered or the social or economic function of the person is substantially disrupted.

26 A drug-dependent person may be physically dependent, a condition in which the body requires a

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 continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms,
 2 or psychologically dependent, a condition characterized by an overwhelming mental desire for con-
 3 tinued use of a drug or controlled substance.

4 [(7)] (5) "Halfway house" means a publicly or privately operated profit or nonprofit, residential
 5 facility approved by the authority that provides rehabilitative care and treatment for alcoholics or
 6 drug-dependent persons.

7 [(8)] (6) "Local planning committee" means a local planning committee for alcohol and drug
 8 prevention and treatment services appointed or designated by the county governing body under ORS
 9 430.342.

10 (7) "Sobering facility" means a stand-alone facility or a part of a larger facility that:

11 (a) Offers to individuals who are acutely intoxicated a safe, clean and supervised envi-
 12 ronment until the individuals are no longer acutely intoxicated; and

13 (b) Contracts with or is affiliated with an addiction treatment program or provider that
 14 is approved by the Oregon Health Authority to provide addiction treatment. The program or
 15 provider shall provide consultation, training and advice to the sobering facility. The program
 16 or provider and the sobering facility must enter into a written agreement that includes, but
 17 need not be limited to, a plan for making referrals to addiction treatment and case consul-
 18 tation.

19 [(9)] (8) "Treatment facility" includes outpatient facilities, inpatient facilities and other facilities
 20 the authority determines suitable and that provide services that meet minimum standards estab-
 21 lished under ORS 430.357, any of which may provide diagnosis and evaluation, medical care,
 22 detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which
 23 operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other
 24 suitable form approved by the authority.

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

26 430.399. (1) Any person who is intoxicated or under the influence of controlled substances in a
 27 public place may be taken or sent home, **or taken to a sobering facility** or to a treatment
 28 facility, by the police. *[However,]* If the person is incapacitated, **the person shall be taken by the**
 29 **police to an appropriate treatment facility or sobering facility.** If the health of the person ap-
 30 pears to be in immediate danger, or the police have reasonable cause to believe the person is dan-
 31 gerous to self or to any other person, the person shall be taken by the police to an appropriate
 32 treatment facility. A person shall be deemed incapacitated when in the opinion of the police officer
 33 or director of the treatment facility the person is unable to make a rational decision as to accept-
 34 ance of assistance.

35 (2) **When a person is taken to a treatment facility,** the director of the treatment facility shall
 36 determine whether [*a*] **the person shall be admitted as a patient,** [*or*] referred to another treatment
 37 facility **or a sobering facility** or denied referral or admission. If the person is incapacitated or the
 38 health of the person appears to be in immediate danger, or if the director has reasonable cause to
 39 believe the person is dangerous to self or to any other person, the person must be admitted. The
 40 person shall be discharged within 48 hours unless the person has applied for voluntary admission
 41 to the treatment facility.

42 (3) **When a person is taken to a sobering facility, the staff of the sobering facility shall**
 43 **determine whether the person shall be admitted into the facility, referred to an appropriate**
 44 **treatment facility or denied referral or admission.** If the staff of the sobering facility has
 45 reasonable cause to believe the person is dangerous to self or to any other person, the person

1 **may be admitted. The person shall be discharged from the sobering facility within 24 hours.**

2 [(3)] (4) In the absence of any appropriate treatment facility **or sobering facility**, an intoxicated
3 person or a person under the influence of controlled substances who would otherwise be taken by
4 the police to a treatment facility **or sobering facility** may be taken to the city or county jail where
5 the person may be held until no longer intoxicated, under the influence of controlled substances or
6 incapacitated.

7 [(4)] (5) An intoxicated person or person under the influence of controlled substances, when
8 taken into custody by the police for a criminal offense, shall immediately be taken to the nearest
9 appropriate treatment facility when the condition of the person requires emergency medical treat-
10 ment.

11 [(5)] (6) The records of a [patient] **person** at a treatment facility **or sobering facility** may not,
12 **without the person's consent**, be revealed to any person other than the director and staff of the
13 treatment facility [without the consent of the patient] **or sobering facility**. A [patient's] **person's** re-
14 quest that no disclosure be made of admission to a treatment facility **or sobering facility** shall be
15 honored unless the [patient] **person** is incapacitated or disclosure of admission is required by ORS
16 430.397.

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

19 430.401. No peace officer, treatment facility **or sobering facility** and staff, physician, physician
20 assistant, nurse practitioner or judge shall be held criminally or civilly liable for actions pursuant
21 to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on
22 probable cause and without malice.

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

25 **SECTION 5.** This 2015 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
27 on its passage.

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