

B-Engrossed
House Bill 2936

Ordered by the House June 8
Including House Amendments dated April 28 and June 8

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." **Requires facility to adopt policies in consultation with addiction treatment program or provider.** Extends civil and criminal immunity to **new** sobering facilities for actions taken in good faith, on probable cause and without [*malice*] **gross negligence**. Allows police **or person deputized by law enforcement** 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, **and section 2 of this 2015 Act**, 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 **Oregon Health** Authority that provides emergency care or treatment for alco-
19 holics or drug-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) “Police officer” means a member of a law enforcement unit who is employed full-time
11 as a peace officer by the city or county and who is responsible for enforcing the criminal
12 laws of this state and any person formally deputized by the law enforcement unit to take
13 custody of a person who is intoxicated or under the influence of controlled substances.

14 (8) “Sobering facility” means a facility that meets all of the following criteria:

15 (a) The facility operates for the purpose of providing to individuals who are acutely
16 intoxicated a safe, clean and supervised environment until the individuals are no longer
17 acutely intoxicated.

18 (b) The facility contracts with or is affiliated with a treatment program or a provider
19 approved by the authority to provide addiction treatment, and the contract or affiliation
20 agreement includes, but is not limited to, case consultation, training and advice and a plan
21 for making referrals to addiction treatment.

22 (c) The facility, in consultation with the addiction treatment program or provider, has
23 adopted comprehensive written policies and procedures incorporating best practices for the
24 safety of intoxicated individuals, employees of the facility and volunteers at the facility.

25 (d) The facility is registered with the Oregon Health Authority under section 2 of this
26 2015 Act.

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

33 **SECTION 2.** (1) The Oregon Health Authority shall maintain a registry of sobering facil-
34 ities.

35 (2) To be registered, a sobering facility must provide the Director of the Oregon Health
36 Authority with a written request for registration. The written request must include the
37 name and address of the sobering facility and a statement signed by an authorized repre-
38 sentative that the facility meets the definition of a sobering facility in ORS 430.306.

39 (3) The authority may not impose a fee or other charge for the registration.

40 (4) The authority shall register a sobering facility that is in operation on the effective
41 date of this 2015 Act if the facility submits a written request for registration that is received
42 by the authority on or before December 31, 2015. The authority shall provide the facility with
43 a written confirmation of the facility’s registration no later than 30 days after the authority
44 receives the written request for registration.

45 (5) Sobering facilities that are not in operation on the effective date of this 2015 Act may

1 **not submit a written request for registration before January 1, 2016. The authority may not**
2 **register more than three such facilities.**

3 **(6) The authority shall register a sobering facility that submits a written request for**
4 **registration on or after January 1, 2016, if fewer than three such facilities are registered.**
5 **The authority shall provide each sobering facility that submits a request for registration**
6 **with a written confirmation of the facility's registration, or a notice denying the registration,**
7 **no later than 30 days after the authority receives the written request for registration.**

8 **(7) The authority shall report to each regular session of the Legislative Assembly, be-**
9 **ginning with the 2017 regular session, on the extent to which sobering facilities registered**
10 **with the authority under this section have provided safe, clean and appropriate environments**
11 **for police officers to take intoxicated persons. The authority may also report any other in-**
12 **formation that the authority determines may be useful to the Legislative Assembly in eval-**
13 **uating the benefits of sobering facilities.**

14 **SECTION 3.** ORS 430.399 is amended to read:

15 430.399. (1) Any person who is intoxicated or under the influence of controlled substances in a
16 public place may be *[taken or]* sent home **or taken to a sobering facility** or to a treatment facility
17 by *[the police. However,]* **a police officer.** If the person is incapacitated, **the person shall be taken**
18 **by the police officer to an appropriate treatment facility or sobering facility.** If the health of
19 the person appears to be in immediate danger, or the police *[have]* **officer has** reasonable cause to
20 believe the person is dangerous to self or to any other person, the person shall be taken by the
21 police **officer** to an appropriate treatment facility **or sobering facility.** A person shall be deemed
22 incapacitated when in the opinion of the police officer *[or director of the treatment facility]* the person
23 is unable to make a rational decision as to acceptance of assistance.

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

31 **(3) When a person is taken to a sobering facility, the staff of the sobering facility shall,**
32 **consistent with the facility's comprehensive written policies and procedures, determine**
33 **whether or not the person shall be admitted into the sobering facility. A person who is ad-**
34 **mitted shall be discharged from the sobering facility within 24 hours.**

35 *[(3)]* **(4) In the absence of any appropriate treatment facility or sobering facility, or if a so-**
36 **bering facility determines that a person should not be admitted to the sobering facility, an**
37 **intoxicated person or a person under the influence of controlled substances who would otherwise**
38 **be taken by the police officer to a treatment facility or sobering facility may be taken to the city**
39 **or county jail where the person may be held until no longer intoxicated, under the influence of**
40 **controlled substances or incapacitated.**

41 *[(4)]* **(5) An intoxicated person or person under the influence of controlled substances, when**
42 **taken into custody by the police officer for a criminal offense, shall immediately be taken to the**
43 **nearest appropriate treatment facility when the condition of the person requires emergency medical**
44 **treatment.**

45 *[(5)]* **(6) The records of a [patient] person at a treatment facility or sobering facility may not,**

1 **without the person's consent**, be revealed to any person other than the director and staff of the
2 treatment facility [*without the consent of the patient*] **or sobering facility**. A [*patient's*] **person's** re-
3 quest that no disclosure be made of admission to a treatment facility **or sobering facility** shall be
4 honored unless the [*patient*] **person** is incapacitated or disclosure of admission is required by ORS
5 430.397.

6 **SECTION 4.** ORS 430.401, as amended by section 47, chapter 45, Oregon Laws 2014, is amended
7 to read:

8 430.401. [*No peace officer, treatment facility and staff,*] (1) **A police officer**, physician, physician
9 assistant, nurse practitioner, [*or*] judge, **treatment facility, treatment facility staff member or**
10 **sobering facility that is registered with the Oregon Health Authority under section 2 of this**
11 **2015 Act based on a written request for registration received by the authority before January**
12 **1, 2016, or the staff of the sobering facility, [*shall*] may not** be held criminally or civilly liable
13 for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are
14 in good faith, on probable cause and without malice.

15 (2) **A sobering facility registered with the authority under section 2 of this 2015 Act based**
16 **on a written request for registration received by the authority on or after January 1, 2016,**
17 **and the staff of the sobering facility, may not be held criminally or civilly liable for actions**
18 **pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in**
19 **good faith, on probable cause and without gross negligence.**

20 **SECTION 5.** The amendments to ORS 430.401 by section 4 of this 2015 Act apply to causes
21 of action arising before, on or after the effective date of this 2015 Act.

22 **SECTION 6.** This 2015 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
24 on its passage.