

# Senate Bill 357

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## 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**.

Modifies sentence that court is required to impose when certain persons are convicted of felony driving under the influence of intoxicants. Authorizes court to order person to wear continuous alcohol monitoring device in lieu of mandatory minimum sentence of 90 days' incarceration, if person is participating in treatment court and meets court's eligibility criteria.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS  
3 813.011; declaring an emergency; and providing for criminal sentence reduction that requires  
4 approval by a two-thirds majority.

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

6 **SECTION 1.** ORS 813.011 is amended to read:

7 813.011. (1) Driving under the influence of intoxicants under ORS 813.010 [*shall be*] **is** a Class  
8 C felony if the defendant has been convicted of driving under the influence of intoxicants in vio-  
9 lation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in the  
10 10 years prior to the date of the current offense.

11 (2) Once a person has been sentenced for a Class C felony under this section, the 10-year time  
12 limitation is eliminated and any subsequent episode of driving under the influence of intoxicants  
13 [*shall be*] **is** a Class C felony [*regardless of the amount of time which intervenes*].

14 (3)(a) [*Upon conviction for*] **Except as otherwise provided in paragraph (b) of this sub-**  
15 **section, when a person is convicted of** a Class C felony under this section, the [*person shall be*  
16 *sentenced*] **court shall sentence the person** to a mandatory minimum term of incarceration of 90  
17 days, without reduction for any reason.

18 **(b) When a person convicted of a Class C felony under this section is participating in a**  
19 **drug court program as defined in ORS 3.450, in lieu of imposing the term of incarceration**  
20 **described in paragraph (a) of this subsection, upon finding that the person meets the eligi-**  
21 **bility criteria established by the court, the court may order that the person wear a contin-**  
22 **uous alcohol monitoring device for a period of at least 90 days.**

23 (4) **Before a court may order that a person wear a continuous alcohol monitoring device**  
24 **under this section, the presiding judge shall by court order establish:**

25 (a) **The eligibility criteria that the person must meet;**

26 (b) **Standards for the continuous alcohol monitoring devices; and**

27 (c) **Procedures for data collection.**

28 (5) **As used in this section, "continuous alcohol monitoring device" means a device that:**

**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) Automatically tests a person’s breath, blood or transdermal alcohol concentration**  
2 **levels at least once per hour;**

3       **(b) Detects attempts to tamper with the device; and**

4       **(c) Regularly transmits data documenting the tests and any attempts to tamper with the**  
5 **device to a secure location.**

6       **SECTION 2.** **The amendments to ORS 813.011 by section 1 of this 2015 Act apply to con-**  
7 **victions for conduct occurring on or after the effective date of this 2015 Act.**

8       **SECTION 3.** **This 2015 Act being necessary for the immediate preservation of the public**  
9 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
10 **on its passage.**

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