

Senate Bill 387

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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**.

Requires person arrested for driving while under influence of intoxicants to submit to fingerprinting within five days of arrest.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; and amending
3 ORS 813.220.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 813.**

6 **SECTION 2. (1) A person who is arrested for driving while under the influence of**
7 **intoxicants in violation of ORS 813.010 shall submit to fingerprinting by the law enforcement**
8 **agency that arrested the person within five days after the arrest.**

9 **(2) The arresting police officer shall inform the person of the following:**

- 10 **(a) The requirement to submit to fingerprinting within five days after the date of arrest;**
11 **(b) The location where the person may go to be fingerprinted; and**
12 **(c) The consequences for failing to submit to fingerprinting.**

13 **(3) After taking a person's fingerprints under this section, the law enforcement agency**
14 **shall immediately submit the fingerprints to the Oregon State Police.**

15 **(4) A person who fails to submit to fingerprinting as required under this section is ineli-**
16 **gible to participate in a driving while under the influence of intoxicants diversion program.**

17 **SECTION 3. ORS 813.220 is amended to read:**

18 813.220. After the time for requesting a hearing under ORS 813.210 has expired with no request
19 for a hearing, or after a hearing requested under ORS 813.210, the court shall determine whether
20 to allow or deny a petition for a driving while under the influence of intoxicants diversion agree-
21 ment. In making a determination under this section, the court:

22 **(1) Shall consider whether the diversion will be of benefit to the defendant and the community.**

23 **(2) May take into consideration whether there was an early recognition by the defendant during**
24 **the proceeding that a course of diagnosis and treatment of problem drinking, alcoholism or drug**
25 **dependency would be beneficial.**

26 **(3) May take into consideration whether there is a probability that the defendant will cooperate**
27 **with the diagnostic assessment and treatment agencies.**

28 **(4) May take into consideration whether the defendant will observe the restrictions contained**
29 **in the diversion agreement.**

30 **(5) May take into consideration whether the offense was committed in a motor vehicle and**

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 whether there was a passenger in the motor vehicle who was under 18 years of age and at least
 2 three years younger than the defendant.

3 (6) Shall deny the petition for a driving while under the influence of intoxicants diversion
 4 agreement if the defendant failed to appear at an arraignment on the present offense without good
 5 cause.

6 (7) Shall deny the petition for a driving while under the influence of intoxicants diversion
 7 agreement if, after the date the defendant filed the petition, the defendant was charged with or
 8 convicted of:

9 (a) An offense of driving while under the influence of intoxicants in violation of:

10 (A) ORS 813.010; or

11 (B) The statutory counterpart to ORS 813.010 in another jurisdiction;

12 (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the
 13 impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an
 14 inhalant or any combination thereof; or

15 (c) A driving offense in another jurisdiction that involved operating a vehicle while having a
 16 blood alcohol content above that jurisdiction's permissible blood alcohol content.

17 (8) Shall deny the petition for a driving while under the influence of intoxicants diversion
 18 agreement if the defendant participated in a driving while under the influence of intoxicants diver-
 19 sion program or in any similar alcohol or drug rehabilitation program, other than a program entered
 20 into as a result of the charge for the present offense, in this state or in another jurisdiction after
 21 the date the defendant filed the petition.

22 (9) Shall deny the petition for a driving while under the influence of intoxicants diversion
 23 agreement if the defendant was charged with or convicted of an offense of aggravated vehicular
 24 homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the
 25 operation of a motor vehicle in this state or in another jurisdiction after the date the defendant filed
 26 the petition.

27 (10) Shall deny the petition for a driving while under the influence of intoxicants diversion
 28 agreement if the defendant has been convicted of a felony offense described in ORS 813.010 (5)(a).

29 (11) For the purposes of subsection (7) of this section, may not consider a conviction for a
 30 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
 31 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
 32 person 21 years of age or older as a prior conviction.

33 (12) May not deny the petition for a driving while under the influence of intoxicants diversion
 34 agreement solely on the basis that the defendant is a member of the Armed Forces of the United
 35 States, the reserve components of the Armed Forces of the United States or the National Guard and
 36 has been called or demonstrates that the defendant will be called to active duty, and the military
 37 service will impair the defendant's ability to complete the diversion program.

38 (13) **Shall deny the petition for a driving while under the influence of intoxicants diver-**
 39 **sion agreement if the defendant failed to submit to fingerprinting as required under section**
 40 **2 of this 2015 Act.**

41 **SECTION 4. Section 2 of this 2015 Act and the amendments to ORS 813.220 by section 3**
 42 **of this 2015 Act apply to arrests made for driving while under the influence of intoxicants**
 43 **on or after the effective date of this 2015 Act.**