

Senate Bill 396

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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 providers of ignition interlock devices to notify court that required device to be installed of any negative reports downloaded from ignition interlock device.

Permits court to order installation of ignition interlock device equipped with camera or similar technology if court does not terminate diversion agreement following negative report.

Reorganizes laws related to ignition interlock devices.

A BILL FOR AN ACT

1
2 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.602, 813.604,
3 813.606 and 813.608.

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

5 **SECTION 1. Sections 2 and 3 of this 2015 Act are added to and made a part of ORS**
6 **chapter 813.**

7 **SECTION 2. Notice to court. (1) As used in this section, “negative report” includes a**
8 **report of tampering with an ignition interlock device, unauthorized removal of the ignition**
9 **interlock device, lockouts or test violations recorded by the ignition interlock device.**

10 **(2) This section applies only to a person who has installed an ignition interlock device as**
11 **a condition of a driving while under the influence of intoxicants diversion agreement under**
12 **ORS 813.602 (3).**

13 **(3) After an ignition interlock device is installed, the provider that installed the device**
14 **shall notify the court that required the device to be installed that the device has been in-**
15 **stalled. Notice of the installation must be given within seven business days of installing the**
16 **ignition interlock device.**

17 **(4) Each time a provider has access to an ignition interlock device that the provider in-**
18 **stalled, the provider shall download all reports recorded on the device. If the provider**
19 **downloads a negative report, the provider shall notify the court. The provider must give no-**
20 **tice of the negative report within seven business days of downloading the negative report.**

21 **SECTION 3. Requirements following show cause hearing on diversion. (1) As used in this**
22 **section, “negative report” includes a report of tampering with an ignition interlock device,**
23 **unauthorized removal of the ignition interlock device, lockouts or test violations recorded**
24 **by the ignition interlock device.**

25 **(2) Subject to subsection (3) of this section, if a court does not terminate a person’s**
26 **driving while under the influence of intoxicants diversion agreement following a show cause**
27 **hearing under ORS 813.255, the court may order the person to install an ignition interlock**
28 **device that identifies the person operating the device by means of a camera or other tech-**

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 **nology and that meets the requirements of rules adopted by the Department of Transporta-**
 2 **tion under subsection (4) of this section.**

3 **(3) Subsection (2) of this section applies only if:**

4 **(a) The person previously was required to install an ignition interlock device as a condi-**
 5 **tion of a driving while under the influence of intoxicants diversion agreement under ORS**
 6 **813.602 (3);**

7 **(b) One of the stated reasons for the proposed termination of the person's diversion**
 8 **agreement is that the person's ignition interlock device has produced a negative report; and**

9 **(c) The person does not at the time of the show cause hearing have an ignition interlock**
 10 **device installed that identifies the person operating the device by means of a camera or other**
 11 **technology and that meets the requirements of rules adopted by the department under sub-**
 12 **section (4) of this section.**

13 **(4) The department shall adopt rules that specify requirements for ignition interlock de-**
 14 **vices that are required to be installed under this section and shall publish a list of devices**
 15 **that meet the requirements. The devices listed must:**

16 **(a) Meet the requirements described in ORS 813.600; and**

17 **(b) Be capable of identifying the user of the device by means of a camera or other tech-**
 18 **nology.**

19 **SECTION 4.** ORS 813.602 is amended to read:

20 813.602. (1) [*Except as provided in*] **Subject to** subsection (2) of this section, when a person is
 21 convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or of a
 22 municipal ordinance, the Department of Transportation, in addition to any other requirement, shall
 23 require that the person [*install*] **have installed** and use an approved ignition interlock device in any
 24 vehicle operated by the person:

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

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

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

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

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

41 (A) Any degree of murder.

42 (B) Manslaughter in the first or second degree.

43 (C) Criminally negligent homicide.

44 (D) Assault in the first degree.

45 (b) Aggravated vehicular homicide.

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

4 (3)(a) Except as provided in paragraph (b) of this subsection, the court shall require as a con-
5 dition of a driving while under the influence of intoxicants diversion agreement that an approved
6 ignition interlock device be installed and used in any vehicle operated by the person during the
7 period of the agreement when the person has driving privileges. In addition to any action taken
8 under ORS 813.255, violation of the condition imposed under this subsection is a Class A traffic vi-
9 olation.

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

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

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

24 [*(6) The department, by rule, shall establish criteria and procedures it will use for qualification to*
25 *wave or defer costs described under subsection (4) of this section for indigence. The criteria must be*
26 *consistent with the standards for indigence adopted by the federal government for purposes of the*
27 *Supplemental Nutrition Assistance Program.*]

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

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

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

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

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

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

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

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

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

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

6 *[(11)] (4) The department shall adopt rules permitting medical exemptions from the requirements*
 7 *of installation and use of an ignition interlock device under [subsections (1), (2) and (3) of] this sec-*
 8 *tion.*

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

14 **SECTION 5. Sections 6 and 7 of this 2015 Act are added to and made a part of ORS**
 15 **chapter 813.**

16 **SECTION 6. Waiver of costs. (1) Except as provided in subsection (2) of this section, if**
 17 **an ignition interlock device is required under ORS 813.602, the person so required shall pay**
 18 **to the provider the reasonable costs of leasing, installing and maintaining the device. A**
 19 **payment schedule may be established for the person by the Department of Transportation.**

20 **(2) The department may waive, in whole or in part, or defer the defendant's responsibility**
 21 **to pay all or part of the costs under subsection (1) of this section if the defendant meets the**
 22 **criteria for indigence established for waiving or deferring such costs under subsection (3) of**
 23 **this section. If the defendant's responsibility for costs is waived, then notwithstanding ORS**
 24 **813.270, the costs described in subsection (1) of this section must be paid from the**
 25 **Intoxicated Driver Program Fund.**

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

30 **SECTION 7. Suspension of driving privileges. (1) At the end of the suspension or revo-**
 31 **cation resulting from a conviction for driving while under the influence of intoxicants in vi-**
 32 **olation of ORS 813.010 or of a municipal ordinance, the Department of Transportation shall**
 33 **suspend the driving privileges or right to apply for driving privileges of a person who has not**
 34 **submitted proof to the department that an ignition interlock device has been installed in any**
 35 **vehicle operated by the person or who tampers with an ignition interlock device after it has**
 36 **been installed.**

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

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

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

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

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

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

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

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

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

11 **SECTION 8.** ORS 813.604 is amended to read:

12 813.604. (1) When a court orders installation of an ignition interlock device pursuant to ORS
13 813.602, the court shall send a copy of the order to the Department of Transportation. The depart-
14 ment shall note the requirement on the driving record of the person required to [*install*] **have** the
15 device **installed**.

16 (2) The department may not issue a hardship permit under ORS 807.240 to any person who is
17 ordered to [*install*] **have** an ignition interlock device **installed** on the person's vehicle until the
18 person furnishes the department satisfactory proof that the device has been installed on any vehicle
19 owned or operated by the person. The department shall determine by rule what constitutes satis-
20 factory proof under this subsection.

21 (3) When the department issues a hardship permit to a person who is required to have an ig-
22 nition interlock device, the department shall note on the permit that the device is required. The
23 notation constitutes a limitation on the permit and a person who violates the limitation is
24 punishable as provided in ORS 811.182 for criminal driving while suspended or revoked.

25 **SECTION 9.** ORS 813.606 is amended to read:

26 813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the
27 person's employment, to operate a motor vehicle owned by the person's employer, the person may
28 operate that vehicle without installation of an ignition interlock device if:

29 (1) The employer has been notified:

30 (a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604;

31 (b) That the employee is operating on a fully reinstated license within the first year following
32 suspension or revocation for the employee's first conviction of driving while under the influence of
33 intoxicants;

34 (c) That the employee is operating on a fully reinstated license within the second year following
35 suspension or revocation for the employee's second or subsequent conviction of driving while under
36 the influence of intoxicants; or

37 (d) That the employee has driving privileges and is otherwise required to [*install*] **have** an ig-
38 nition interlock device **installed** as a condition of a driving while under the influence of intoxicants
39 diversion agreement; and

40 (2) The employee has proof of the notification and, if applicable, a fully reinstated license in the
41 possession of the employee while operating the employer's vehicle in the course of employment.

42 **SECTION 10.** ORS 813.608 is amended to read:

43 813.608. (1) A person commits the offense of knowingly furnishing a motor vehicle without an
44 ignition interlock device to someone who is not authorized to drive such a vehicle if the person
45 rents, leases, lends or otherwise furnishes a motor vehicle to someone the person knows to have

1 been ordered or required under ORS 813.602, to [*install*] **have** an ignition interlock device
2 **installed**, and the motor vehicle is not equipped with such a device that is in working order.

3 (2) The offense described in this section, knowingly furnishing a motor vehicle without an ig-
4 nition interlock device to someone who is not authorized to drive such a vehicle, is a Class A traffic
5 violation.

6 **SECTION 11. Applicability. Sections 2, 3, 6 and 7 of this 2015 Act and the amendments**
7 **to ORS 813.602 by section 4 of this 2015 Act apply to driving while under the influence of**
8 **intoxicants diversion agreements entered into on or after the effective date of this 2015 Act.**

9 **SECTION 12. Captions. The section captions used in this 2015 Act are provided only for**
10 **the convenience of the reader and do not become part of the statutory law of this state or**
11 **express any legislative intent in the enactment of this 2015 Act.**

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