

Senate Bill 512

Sponsored by Senator THATCHER

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**.

Continues ignition interlock device requirement under certain circumstances.
Reorganizes laws related to ignition interlock devices.

A BILL FOR AN ACT

1
2 Relating to the period of time that an ignition interlock device is required to be installed; creating
3 new provisions; and amending ORS 813.602.

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 the Oregon Vehicle**
6 **Code.**

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

10 **(2) Notwithstanding ORS 813.602 (1)(c) and (2), the requirement to have an ignition**
11 **interlock device installed in a vehicle continues until the person submits to the Department**
12 **of Transportation a certificate from the ignition interlock device provider stating that the**
13 **device has not recorded a negative report for at least six consecutive months or until the**
14 **ending date described in ORS 813.602 (1)(c) or (2), whichever occurs later.**

15 **(3) A person required to have an ignition interlock device installed may submit the cer-**
16 **tificate required under subsection (2) of this section no earlier than:**

17 **(a) The second year the person is required to have the device under ORS 813.602 (1)(c);**
18 **or**

19 **(b) The fifth year the person is required to have the device under ORS 813.602 (2).**

20 **(4) The department shall adopt rules for the implementation of this section.**

21 **SECTION 3. ORS 813.602 is amended to read:**

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

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

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

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 (c) For a second or subsequent conviction, for two years after *[the ending date of]* the suspension
2 or revocation caused by the conviction **ends**. Violation of the condition imposed under this para-
3 graph is a Class A traffic violation.

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

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

12 (A) Any degree of murder.

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

14 (C) Criminally negligent homicide.

15 (D) Assault in the first degree.

16 (b) Aggravated vehicular homicide.

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

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

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

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

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

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

44 *[(7) At the end of the suspension or revocation resulting from the conviction, the department shall*
45 *suspend the driving privileges or right to apply for driving privileges of a person who has not sub-*

mitted proof to the department that an ignition interlock device has been installed or who tampers with an ignition interlock device after it has been installed.]

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Fee Waiver. (1) Except as provided in subsection (2) of this section, if an ignition interlock device is ordered or required under ORS 813.602, the person so ordered or required shall pay to the provider the reasonable costs of leasing, installing and maintaining the device. A payment schedule may be established for the person by the Department of Transportation.

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

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

SECTION 5. Suspension of driving privileges. (1) At the end of a suspension or revocation

1 resulting from a conviction as described in ORS 813.602, the Department of Transportation
 2 shall suspend the driving privileges or right to apply for driving privileges of a person who
 3 has not submitted proof to the department that an ignition interlock device has been in-
 4 stalled or who tampers with an ignition interlock device after it has been installed.

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

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

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

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

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

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

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

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

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

23 **SECTION 6. Notice of ignition interlock device installation.** When a person is required
 24 to have an ignition interlock device installed under ORS 813.602 (3), the provider of the device
 25 shall provide notice of any installation or removal of the device or any tampering with the
 26 device to the court that ordered installation of the device or to the court's designee, includ-
 27 ing but not limited to an agency or organization certified by the Oregon Health Authority
 28 under ORS 813.025.

29 **SECTION 7. Applicability.** Sections 2 and 4 to 6 of this 2015 Act and the amendments to
 30 ORS 813.602 by section 3 of this 2015 Act apply to offenses committed on or after the effective
 31 date of this 2015 Act.

32 **SECTION 8. Captions.** The section captions used in this 2015 Act are provided only for
 33 the convenience of the reader and do not become part of the statutory law of this state or
 34 express any legislative intent in the enactment of this 2015 Act.

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