

**PROPOSED AMENDMENTS TO
SENATE BILL 397**

1 On page 1 of the printed bill, delete line 3 and insert “813.021, 813.240 and
2 813.602.”.

3 Delete lines 5 through 30 and delete page 2 and insert:

4 **“SECTION 1. Sections 2 to 4 of this 2015 Act are added to and made
5 a part of the Oregon Vehicle Code.**

6 **“SECTION 2. Notice of ignition interlock device installation and
7 negative reports. (1)(a) As used in this section, ‘negative report’ in-
8 cludes a report of tampering with an ignition interlock device, unau-
9 thorized removal of an ignition interlock device, lockout or a test
10 violation recorded by an ignition interlock device.**

11 **“(b) The Department of Transportation may by rule further define
12 what constitutes a test violation.**

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

16 **“(3) After an ignition interlock device is installed, the provider that
17 installed the device shall notify:**

18 **“(a) The court that required the device to be installed or the court’s
19 designee, including but not limited to an agency or organization cer-
20 tified by the Oregon Health Authority under ORS 813.025; and**

21 **“(b) The district attorney or city prosecutor.**

22 **“(4) Notice of the installation must be given within seven business**

1 days of installing the ignition interlock device.

2 “(5) Each time a provider has access to an ignition interlock device
3 that the provider installed, the provider shall download all reports re-
4 corded on the device. If the provider downloads a negative report, the
5 provider shall submit the negative report, in a form prescribed by rule
6 by the department, to:

7 “(a) The court that required the device to be installed or the court’s
8 designee, including but not limited to an agency or organization cer-
9 tified by the Oregon Health Authority under ORS 813.025; and

10 “(b) The district attorney or city prosecutor.

11 “(6) The provider shall submit a negative report as provided in
12 subsection (5) of this section within seven business days of download-
13 ing the report.

14 “SECTION 3. Consequence for negative reports generated from ig-
15 nition interlock device. (1)(a) As used in this section, ‘negative
16 report’ includes a report of tampering with an ignition interlock de-
17 vice, unauthorized removal of an ignition interlock device, lockout or
18 a test violation recorded by an ignition interlock device.

19 “(b) The Department of Transportation may by rule further define
20 what constitutes a test violation.

21 “(2) Notwithstanding ORS 813.602, the requirement to have an ig-
22 nition interlock device installed in a vehicle continues until the person
23 submits to the department a certificate from the ignition interlock
24 device provider stating that the device did not record a negative report
25 for the last 90 consecutive days of the required installation period. If
26 there is a negative report during the last 90 consecutive days, the
27 person shall continue to use an ignition interlock device beyond the
28 period required under ORS 813.602 until the person submits a certifi-
29 cate, in a form prescribed by rule by the department, to the depart-
30 ment from the ignition interlock device provider stating that the

1 device has not recorded a negative report for 90 consecutive days, be-
2 ginning on the date of the most recent negative report.

3 “(3) This section does not apply to a defendant who is granted an
4 order to vacate the requirement to install an ignition interlock device
5 under section 4 of this 2015 Act.

6 “SECTION 4. Motion to vacate requirement to install and use ig-
7 nition interlock device. (1)(a) As used in this section, ‘negative
8 report’ includes a report of tampering with an ignition interlock de-
9 vice, unauthorized removal of an ignition interlock device, lockout or
10 a test violation recorded by an ignition interlock device.

11 “(b) The Department of Transportation may by rule further define
12 what constitutes a test violation.

13 “(2) A defendant may apply by motion to the court in which a
14 driving while under the influence of intoxicants diversion agreement
15 described in ORS 813.230 was entered for an order vacating the re-
16 quirement to install and use an ignition interlock device if the de-
17 fendant:

18 “(a) Has complied with the condition of the diversion agreement
19 described in ORS 813.602 (3) for at least six consecutive months and
20 provides a certificate to the court from the ignition interlock device
21 provider stating that the device has not recorded a negative report;
22 and

23 “(b) The defendant has entered into and is in compliance with any
24 treatment program that the person is required to participate in as a
25 condition of diversion.

26 “(3) The defendant shall cause to be served on the district attorney
27 or city prosecutor a copy of the motion for an order vacating the re-
28 quirement to install and use an ignition interlock device under ORS
29 813.602 (3). The copy of the motion shall be served on the district at-
30 torney or city prosecutor at the time the motion is filed with the

1 **court. The district attorney or city prosecutor may contest the motion.**

2 **“(4) The court shall hold a hearing on a petition filed in accordance**
3 **with subsection (2) of this section. In determining whether to grant**
4 **the petition, the court shall consider:**

5 **“(a) The nature of the underlying crime for which driving privileges**
6 **were suspended.**

7 **“(b) The blood alcohol content of the defendant at the time of the**
8 **arrest.**

9 **“(c) Any other relevant factors.**

10 **“(5) The court may vacate a defendant’s requirement to install and**
11 **use an ignition interlock device under ORS 813.602 (3) if, after a hear-**
12 **ing described in subsection (4) of this section, the court finds by a**
13 **preponderance of the evidence that the petitioner:**

14 **“(a) Has complied with the condition of the diversion agreement**
15 **described in ORS 813.602 (3) for at least six consecutive months with**
16 **no negative reports; and**

17 **“(b) Has entered into and is in compliance with any treatment**
18 **program required as a condition of diversion.**

19 **“(6) When a court vacates a defendant’s requirement to install and**
20 **use an ignition interlock device under ORS 813.602 (3), the court shall**
21 **notify the department.**

22 **“SECTION 5. ORS 813.602 is amended to read:**

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

29 **“(a) Before the person is eligible for a hardship permit. The requirement**
30 **is a condition of the hardship permit for the duration of the hardship permit.**

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

4 “(c) For a second or subsequent conviction, for two years after [*the ending*
5 *date of*] the suspension or revocation caused by the conviction **ends**. Vio-
6 lation of the condition imposed under this paragraph is a Class A traffic
7 violation.

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

16 “(a) Driving while under the influence of intoxicants in violation of ORS
17 813.010 or of a municipal ordinance and any of the following crimes as part
18 of the same criminal episode:

19 “(A) Any degree of murder.

20 “(B) Manslaughter in the first or second degree.

21 “(C) Criminally negligent homicide.

22 “(D) Assault in the first degree.

23 “(b) Aggravated vehicular homicide.

24 “(c) Driving while under the influence of intoxicants in violation of ORS
25 813.010 or of a municipal ordinance and the person’s driving privileges are
26 revoked under ORS 809.235 (1)(b) and later ordered restored under ORS
27 809.235 (4).

28 “(3)(a) Except as provided in paragraph (b) of this subsection **and section**
29 **4 of this 2015 Act**, the court shall require as a condition of a driving while
30 under the influence of intoxicants diversion agreement that an approved ig-

1 nition interlock device be installed and used in any vehicle operated by the
2 person during the period of the agreement when the person has driving
3 privileges. In addition to any action taken under ORS 813.255, violation of
4 the condition imposed under this subsection is a Class A traffic violation.

5 “(b) A court may exempt a person from the condition in a diversion
6 agreement to [*install*] **have installed** and [*use*] **be using** an ignition inter-
7 lock device if the court determines that the person meets the requirements
8 for a medical exemption in accordance with rules adopted by the department
9 under this section. A person granted a medical exemption under this para-
10 graph shall carry proof of the medical exemption with the person while op-
11 erating any vehicle.

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

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

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

29 “[*(7) At the end of the suspension or revocation resulting from the con-*
30 *viction, the department shall suspend the driving privileges or right to apply*

1 *for driving privileges of a person who has not submitted proof to the depart-*
2 *ment that an ignition interlock device has been installed or who tampers with*
3 *an ignition interlock device after it has been installed.]*

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

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

11 *“(b) Except as provided in paragraph (c) of this subsection, two years after*
12 *the ending date of the suspension resulting from a second or subsequent con-*
13 *viction; or]*

14 *“(c) Five years after the ending date of the longest running suspension or*
15 *revocation resulting from a conviction described in subsection (2) of this sec-*
16 *tion.]*

17 *“(9) If the department imposes a suspension under subsection (7) of this*
18 *section for tampering with an ignition interlock device, the suspension contin-*
19 *ues until:]*

20 *“(a) One year after the ending date of the suspension resulting from the*
21 *first conviction;]*

22 *“(b) Except as provided in paragraph (c) of this subsection, two years after*
23 *the ending date of the suspension resulting from a second or subsequent con-*
24 *viction; or]*

25 *“(c) Five years after the ending date of the longest running suspension or*
26 *revocation resulting from a conviction described in subsection (2) of this sec-*
27 *tion.]*

28 *“(10) A person whose driving privileges or right to apply for privileges is*
29 *suspended under subsection (7) of this section is entitled to administrative re-*
30 *view, as described in ORS 809.440, of the action.]*

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

4 “[(12)] (5) When a person is required to install an ignition interlock de-
5 vice under subsection (2) [or (3)] of this section, the provider of the device
6 shall provide notice of any installation or removal of the device or any
7 tampering with the device to:

8 “(a) The **supervising** court [*that ordered installation of the device*] or to
9 the court’s designee, including but not limited to an agency or organization
10 certified by the Oregon Health Authority under ORS 813.025[.]; **and**

11 “(b) **The district attorney or the city prosecutor.**

12 “**SECTION 6. Sections 7 and 8 of this 2015 Act are added to and**
13 **made a part of ORS chapter 813.**

14 “**SECTION 7. Fee Waiver. (1) Except as provided in subsection (2)**
15 **of this section, if an ignition interlock device is ordered or required**
16 **under ORS 813.602, the person so ordered or required shall pay to the**
17 **provider the reasonable costs of leasing, installing and maintaining the**
18 **device. A payment schedule may be established for the person by the**
19 **Department of Transportation.**

20 “(2) **The department may waive, in whole or in part, or defer the**
21 **person’s responsibility to pay all or part of the costs under subsection**
22 **(1) of this section if the person meets the criteria for indigence estab-**
23 **lished for waiving or deferring such costs under subsection (3) of this**
24 **section. If the person’s responsibility for costs is waived, then not-**
25 **withstanding ORS 813.270, the costs described in subsection (1) of this**
26 **section must be paid from the Intoxicated Driver Program Fund.**

27 “(3) **The department, by rule, shall establish criteria and procedures**
28 **for qualification to waive or defer costs described under subsection (1)**
29 **of this section for indigence. The criteria must be consistent with the**
30 **standards for indigence adopted by the federal government for pur-**

1 poses of the Supplemental Nutrition Assistance Program.

2 **“SECTION 8. Suspension of driving privileges.** (1) At the end of a
3 suspension or revocation resulting from a conviction as described in
4 **ORS 813.602**, the Department of Transportation shall suspend the
5 driving privileges or right to apply for driving privileges of a person
6 who has not submitted proof to the department that an ignition
7 interlock device has been installed or who tampers with an ignition
8 interlock device after it has been installed.

9 **“(2) Subject to section 3 of this 2015 Act, if the department imposes**
10 **a suspension under subsection (1) of this section for failing to submit**
11 **proof of installation, the suspension continues until the department**
12 **receives proof that the ignition interlock device has been installed. If**
13 **the department does not receive proof that the ignition interlock de-**
14 **vice has been installed, the suspension shall continue for:**

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

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

20 **“(c) Five years after the ending date of the longest running sus-**
21 **pension or revocation resulting from a conviction described in ORS**
22 **813.602 (2).**

23 **“(3) Subject to section 3 of this 2015 Act, if the department imposes**
24 **a suspension under subsection (1) of this section for tampering with**
25 **an ignition interlock device, the suspension continues until:**

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

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

1 **“(c) Five years after the ending date of the longest running sus-**
2 **pension or revocation resulting from a conviction described in ORS**
3 **813.602 (2).**

4 **“(4) A person whose driving privileges or right to apply for privi-**
5 **leges is suspended under subsection (1) of this section is entitled to**
6 **administrative review, as described in ORS 809.440.**

7 **“SECTION 9.** ORS 813.021 is amended to read:

8 “813.021. (1) When a court, in accordance with ORS 813.020, requires a
9 person to complete a screening interview and a treatment program, the court
10 shall require the person to do all of the following:

11 “(a) Complete a screening interview for the purpose of determining ap-
12 propriate placement of the person in a program for treatment for alcoholism,
13 drug dependency or dependency on inhalants.

14 “(b) Pay directly to the agency or organization conducting the screening
15 interview a fee of \$150.

16 “(c) Complete the treatment program to which the person is referred.

17 “(d) Pay for the treatment program to which the person is referred.

18 “(2) The screening interview required by this section shall be conducted
19 by an agency or organization designated by the court. The designated
20 agency or organization must meet the standards set by the Director of the
21 Oregon Health Authority to conduct the screening interviews. Wherever
22 possible a court shall designate agencies or organizations to perform the
23 screening interview that are separate from those that may be designated to
24 carry out a treatment program.

25 “(3) An agency or organization doing a screening interview under this
26 section may not refer a person to a treatment program that has not been
27 approved by the Director of the Oregon Health Authority.

28 “(4) The agency or organization conducting a screening interview under
29 this section shall monitor the progress of the person referred to the agency
30 or organization. The agency or organization shall make a report to the re-

1 ferring court stating the person’s successful completion or failure to com-
2 plete all or any part of the screening interview or of the treatment program
3 to which the person was referred by the agency or organization. The report
4 shall be in a form determined by agreement between the court and the
5 agency or organization.

6 **“(5) A court or an agency or organization may not charge a person**
7 **an additional fee to pay the costs incurred by the agency or organiza-**
8 **tion in carrying out the duties of the agency or organization.**

9 **“SECTION 10.** ORS 813.240 is amended to read:

10 “813.240. (1) The filing fee paid by a defendant at the time of filing a pe-
11 tition for a driving while under the influence of intoxicants diversion
12 agreement as provided in ORS 813.210 is \$490. A fee collected under this
13 subsection in the circuit court shall be deposited by the clerk of the court
14 in the Criminal Fine Account. If the fee is collected in a municipal or justice
15 court, \$290 of the fee shall be forwarded by the court to the Department of
16 Revenue for deposit in the Criminal Fine Account, and the remainder of the
17 fee shall be paid to the city or county treasurer.

18 “(2) If less than the full filing fee is collected under subsection (1) of this
19 section in a municipal or justice court, the money received shall be allocated
20 first to the Department of Revenue for deposit in the Criminal Fine Account.

21 “(3) In addition to the filing fee under subsection (1) of this section, the
22 court shall order the defendant to pay \$150 directly to the agency or organ-
23 ization providing the diagnostic assessment. **A court or an agency or or-**
24 **ganization may not charge a defendant an additional fee to pay the**
25 **costs incurred by the agency or organization in carrying out the duties**
26 **of the agency or organization.**

27 **“SECTION 11. Applicability.** (1) **Sections 2 to 4, 7 and 8 of this 2015**
28 **Act and the amendments to ORS 813.602 by section 5 of this 2015 Act**
29 **apply to offenses committed on or after the effective date of this 2015**
30 **Act.**

1 **“(2) The amendments to ORS 813.021 and 813.240 by sections 9 and**
2 **10 of this 2015 Act apply to offenses committed before, on or after the**
3 **effective date of this 2015 Act.**

4 **“SECTION 12. Captions. The section captions used in this 2015 Act**
5 **are provided only for the convenience of the reader and do not become**
6 **part of the statutory law of this state or express any legislative intent**
7 **in the enactment of this 2015 Act.”.**

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