

**PROPOSED AMENDMENTS TO
HOUSE BILL 3233**

1 On page 1 of the printed bill, line 3, after “ORS” insert “807.270, 809.390
2 and”.

3 Delete lines 5 through 27 and delete pages 2 through 5 and insert:

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

6 **“SECTION 2. (1) Notwithstanding ORS 809.235, a person whose
7 driving privileges are revoked under ORS 809.235 (1)(b) may file a pe-
8 tition in the circuit court of the county in which the person’s driving
9 privileges were revoked for an order permitting the person to apply for
10 a probationary driver permit under ORS 807.270. A petition may be
11 filed under this subsection no sooner than five years after the person
12 is:**

13 **“(a) Released on parole or post-prison supervision for the crime for
14 which the person’s driving privileges were revoked and any other
15 crimes arising out of the same criminal episode;**

16 **“(b) Sentenced to probation for the crime for which the person’s
17 driving privileges were revoked, unless the probation is revoked, in
18 which case the petition may be filed no sooner than five years after
19 the date probation is revoked; or**

20 **“(c) Sentenced for the crime for which the person’s driving privi-
21 leges were revoked, if no other provision of this subsection applies.**

22 **“(2) Notwithstanding subsection (1) of this section, if during the**

1 revocation period for the crime for which the person was convicted the
2 person is convicted of a crime involving a motor vehicle, the person
3 may file a petition to apply for a probationary driver permit as de-
4 scribed in subsection (1) of this section no sooner than five years after
5 the date of the most recent conviction involving a motor vehicle.

6 “(3) The district attorney of the county in which the person’s driv-
7 ing privileges were revoked shall be named and served as the re-
8 spondent in the petition.

9 “(4) The court shall hold a hearing on a petition filed in accordance
10 with subsection (1) of this section. In determining whether to grant
11 the petition, the court shall consider the following:

12 “(a) The nature of the crime for which driving privileges were re-
13 voked.

14 “(b) Other criminal and relevant noncriminal behavior of the
15 petitioner both before and after the conviction that resulted in the
16 revocation.

17 “(c) The recommendation of the person’s parole officer or probation
18 officer, which shall be based in part on a psychological evaluation or-
19 dered by the court to determine whether the person is presently a
20 threat to the safety of the public.

21 “(d) Any other relevant factors.

22 “(5) A court may not grant an order permitting a person to apply
23 to the Department of Transportation for a probationary driver permit
24 under ORS 807.270 if the crime for which the person’s driving privileges
25 were revoked under ORS 809.235 (1)(b) caused physical injury to an-
26 other person.

27 “(6) The court shall grant an order permitting a person to apply for
28 a probationary driver permit under ORS 807.270 if, after a hearing de-
29 scribed in subsection (4) of this section, the court finds clear and
30 convincing evidence that the petitioner:

1 “(a) Is rehabilitated;
2 “(b) Does not pose a threat to the safety of the public; and
3 “(c) If the sentence for the crime for which the petitioner’s driving
4 privileges were revoked required the petitioner to complete an alcohol
5 or drug treatment program, has completed an alcohol or drug treat-
6 ment program in a facility approved by the Director of the Oregon
7 Health Authority or a similar program in another jurisdiction.

8 “(7) Upon receiving a court order under this section, the person
9 may apply for a probationary driver permit under ORS 807.270. The
10 department may issue a probationary driver permit in accordance with
11 ORS 807.270, except that the department may not issue the
12 probationary driver permit until the person complies with future re-
13 sponsibility filings and files a copy of the court order with the de-
14 partment.

15 “SECTION 3. ORS 809.390 is amended to read:

16 “809.390. All of the following apply to a person whose driving privileges
17 have been revoked:

18 “(1) The period of revocation shall last as long as required for the revo-
19 cation by law.

20 “(2) Except as provided in ORS 807.270 and subsection (3) of this
21 section, the Department of Transportation may not issue any driver
22 permit, including a hardship permit described under ORS 807.240, to a
23 person whose driving privileges or right to apply for driving privileges
24 are revoked.

25 “[(2)] (3) During the period of revocation, the person is not entitled to
26 exercise any driving privileges in this state or to apply for or receive any
27 driving privileges in this state except as follows:

28 “(a) When a person who has been determined to be a habitual offender
29 is permitted to obtain driving privileges under a probationary [*driving*]
30 driver permit as described under ORS 807.270 and 809.650. [*This subsection*

1 *prohibits the issuance of any driver permit, including a hardship permit de-*
2 *scribed under ORS 807.240, to a person whose driving privileges or right to*
3 *apply for driving privileges are revoked except as provided for the probationary*
4 *driving permit under ORS 807.270.]*

5 “(b) When a person whose driving privileges are revoked under ORS
6 809.235 (1)(b) is permitted to obtain driving privileges under a
7 probationary driver permit as described under ORS 807.270 and section
8 2 of this 2015 Act.

9 “[3] (4) Upon expiration of the revocation period, the person must re-
10 apply for driving privileges in the manner established by law and must re-
11 establish the person’s eligibility for issuance of driving privileges. If driving
12 privileges are revoked because the person is a habitual offender, the person
13 must meet the additional eligibility requirements for reinstatement of driving
14 privileges under ORS 809.650 and 809.660.

15 “[4] (5) The department [*of Transportation*] may issue new driving priv-
16 ileges to a person before the expiration of the revocation period if the person
17 is otherwise entitled to be issued driving privileges and when, with reference
18 to a conviction upon which the revocation was based, the Governor has
19 pardoned the person of the crime.

20 “[5] (6) The department [*shall*] **may** not issue any driving privileges in
21 contradiction to this section.

22 “[6] (7) If the person fails to surrender to the department any license
23 or driver permit issued as evidence of driving privileges that are revoked, the
24 person is subject to the penalty under ORS 809.500.

25 “[7] (8) [*No*] **A** reinstatement of revoked driving privileges [*will*] **may**
26 **not** be made by the department until the fee for reinstatement of revoked
27 driving privileges established under ORS 807.370 is paid to or waived by the
28 department. The department may waive the reinstatement fee if the depart-
29 ment committed an error in issuing the revocation.

30 “**SECTION 4.** ORS 807.270 is amended to read:

1 “807.270. The Department of Transportation shall provide for issuance of
2 probationary driver permits in a manner consistent with this section. A
3 probationary driver permit grants the driving privileges provided in this
4 section or under the permit. Except as otherwise provided in this section, a
5 probationary driver permit is subject to the fees, provisions, conditions,
6 prohibitions and penalties applicable to a Class C license. The following
7 apply to a probationary driver permit:

8 “(1) The department may issue a probationary driver permit to a person:

9 “(a) Whose driving privileges have been revoked as a habitual offender
10 under ORS 809.640.

11 “(b) Whose driving privileges have been revoked under ORS 809.235
12 (1)(b) and who has been granted a court order under section 2 of this
13 2015 Act.

14 “(2) The department may issue a probationary driver permit that is valid
15 for the duration of the revocation period unless the permit is suspended or
16 revoked.

17 “(3) A probationary driver permit may only be issued to a person while
18 that person’s driving privileges and right to apply for driving privileges are
19 otherwise revoked under:

20 “(a) ORS 809.640 because the person has been determined to be a habitual
21 offender.

22 “(b) ORS 809.235 (1)(b).

23 “(4) The department may not issue a probationary driver permit author-
24 izing operation of a commercial motor vehicle.

25 “(5) The fee charged for application or issuance of a probationary driver
26 permit is the probationary driver permit application fee under ORS 807.370.
27 The department may not refund the fee if the application is denied or if the
28 driver permit is suspended or revoked. The application fee charged under this
29 subsection is in addition to any fee charged for reinstatement of driving
30 privileges under ORS 807.370.

1 “(6) Before an applicant may be issued a probationary driver permit, the
2 applicant must meet the following qualifications in addition to any other
3 qualifications for the permit:

4 “(a) The applicant must successfully complete a driver improvement
5 course approved by the department; *[and]*

6 “(b) The applicant must submit a report of a diagnostic examination
7 conducted by a private physician showing to the satisfaction of the depart-
8 ment that the applicant is physically and mentally competent to safely op-
9 erate a motor vehicle[.]; **and**

10 **“(c) If the applicant’s driving privileges are revoked under ORS**
11 **809.235 (1)(b), the applicant shall submit an order from the court, is-**
12 **sued pursuant to section 2 of this 2015 Act, permitting the person to**
13 **apply for the probationary driver permit.**

14 “(7) A person who is issued a probationary driver permit must continually
15 satisfy the conditions of the permit.

16 “(8) If a person issued a probationary driver permit is convicted of one
17 offense described in ORS 809.600 (1) or more than one offense described in
18 ORS 809.600 (2) within any 12-month period, the permit shall be revoked and
19 no license or permit may be issued for one year from the date of the revo-
20 cation.

21 “(9) The department may establish by rule additional limitations for a
22 probationary driver permit. The limitations may include any limitation,
23 condition or requirement. Violation of a limitation is punishable as provided
24 by ORS 811.175 and 811.182.

25 “(10) Upon receiving satisfactory evidence of any violation of the limita-
26 tions placed on a probationary driver permit under this section, the depart-
27 ment may suspend or revoke the probationary driver permit.

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

29 “813.602. (1) Except as provided in subsection (2) of this section, when a
30 person is convicted of driving while under the influence of intoxicants in

1 violation of ORS 813.010 or of a municipal ordinance, the Department of
2 Transportation, in addition to any other requirement, shall require that the
3 person install and use an approved ignition interlock device in any vehicle
4 operated by the person:

5 “(a) Before the person is eligible for a **probationary driver permit un-**
6 **der ORS 807.270 (1)(b) or a** hardship permit. The requirement is a condition
7 of the **probationary driver permit or the** hardship permit for the duration
8 of the [*hardship*] permit.

9 “(b) For a first conviction, for one year after the ending date of the sus-
10 pension or revocation caused by the conviction. Violation of the condition
11 imposed under this paragraph is a Class A traffic violation.

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

15 “(2) When a person is convicted of a crime or multiple crimes as described
16 in this subsection, the department, in addition to any other requirement,
17 shall require that the person install and use an approved ignition interlock
18 device in any vehicle operated by the person for five years after the ending
19 date of the longest running suspension or revocation caused by any of the
20 convictions. Violation of the condition imposed under this subsection is a
21 Class A traffic violation. A person is subject to this subsection when the
22 person is convicted of:

23 “(a) Driving while under the influence of intoxicants in violation of ORS
24 813.010 or of a municipal ordinance and any of the following crimes as part
25 of the same criminal episode:

26 “(A) Any degree of murder.

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

28 “(C) Criminally negligent homicide.

29 “(D) Assault in the first degree.

30 “(b) Aggravated vehicular homicide.

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

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

12 “(b) A court may exempt a person from the condition in a diversion
13 agreement to install and use an ignition interlock device if the court deter-
14 mines that the person meets the requirements for a medical exemption in
15 accordance with rules adopted by the department under this section. A per-
16 son granted a medical exemption under this paragraph shall carry proof of
17 the medical exemption with the person while operating any vehicle.

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

23 “(5) The department may waive, in whole or in part, or defer the
24 defendant’s responsibility to pay all or part of the costs under subsection (4)
25 of this section if the defendant meets the criteria for indigence established
26 for waiving or deferring such costs under subsection (6) of this section. If the
27 defendant’s responsibility for costs is waived, then notwithstanding ORS
28 813.270, the costs described in subsection (4) of this section must be paid from
29 the Intoxicated Driver Program Fund.

30 “(6) The department, by rule, shall establish criteria and procedures it

1 will use for qualification to waive or defer costs described under subsection
2 (4) of this section for indigence. The criteria must be consistent with the
3 standards for indigence adopted by the federal government for purposes of
4 the Supplemental Nutrition Assistance Program.

5 “(7) At the end of the suspension or revocation resulting from the con-
6 viction, the department shall suspend the driving privileges or right to apply
7 for driving privileges of a person who has not submitted proof to the de-
8 partment that an ignition interlock device has been installed or who tampers
9 with an ignition interlock device after it has been installed.

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

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

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

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

23 “(9) If the department imposes a suspension under subsection (7) of this
24 section for tampering with an ignition interlock device, the suspension con-
25 tinues until:

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

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

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

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

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

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

16 **“SECTION 6. Section 2 of this 2015 Act and the amendments to ORS**
17 **807.270, 809.390 and 813.602 by sections 3 to 5 of this 2015 Act apply to**
18 **offenses committed before, on or after the effective date of this 2015**
19 **Act.”.**

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