

D R A F T

SUMMARY

Allows defendant to file petition for driving while under influence of intoxicants diversion agreement 14 days after receiving evidence under certain circumstances.

A BILL FOR AN ACT

Relating to driving while under the influence of intoxicants diversion agreements; creating new provisions; and amending ORS 813.210.

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

SECTION 1. ORS 813.210 is amended to read:

813.210. (1) After an accusatory instrument has been filed charging the defendant with the offense of driving while under the influence of intoxicants, a defendant may file with the court a petition for a driving while under the influence of intoxicants diversion agreement described in ORS 813.200. The petition:

(a) Must be filed within 30 days after the date of the defendant's first appearance on the summons, unless a later filing date is allowed by the court upon a showing of good cause. For purposes of this paragraph, the filing of a demurrer, a motion to suppress or a motion for an omnibus hearing does not constitute good cause.

(b) Notwithstanding paragraph (a) of this subsection, may not be filed after entry of a guilty plea or a no contest plea or after commencement of any trial on the charge whether or not a new trial or retrial is ordered for any reason.

(c) Notwithstanding paragraph (a) of this subsection, may be filed

1 **up to 14 days after the date the defendant's attorney receives the lab-**
2 **oratory notes and laboratory test results from the defendant's urine**
3 **or blood sample analysis, if:**

4 **(A) The accusatory instrument alleges that the defendant was**
5 **driving under the influence of intoxicants and alleges that at the time**
6 **the conduct occurred the defendant was under the influence of a con-**
7 **trolled substance or an inhalant;**

8 **(B) It is unknown whether or not at the time the conduct occurred**
9 **the defendant had less than 0.08 percent by weight of alcohol in the**
10 **blood; and**

11 **(C) The district attorney or city attorney obtained a urine or blood**
12 **sample from the defendant.**

13 (2) The defendant shall pay to the court, at the time of filing a petition
14 for a driving while under the influence of intoxicants diversion agreement,
15 a filing fee established under ORS 813.240. The court may make provision for
16 payment of the filing fee by the defendant on an installment basis. The court
17 may waive all or part of the filing fee in cases involving indigent defendants.
18 The filing fee paid to the court under this subsection shall be retained by
19 the court if the petition is allowed. The filing fee shall be distributed as
20 provided by ORS 813.240.

21 (3) The defendant shall pay to the agency or organization providing the
22 screening interview, at the time the petition is allowed, the fee required by
23 ORS 813.240 (3).

24 (4)(a) Unless otherwise provided under paragraph (b) of this subsection,
25 the defendant shall pay to the court any court-appointed attorney fees agreed
26 to under ORS 813.200 (4)(i). Payments shall be made prior to the end of the
27 diversion period on a schedule determined by the court.

28 (b) The court may waive all or part of the court-appointed attorney fees
29 agreed to under ORS 813.200 (4)(i).

30 (5) The defendant shall begin paying to the court any restitution ordered
31 under ORS 137.108. Payments shall be made during the diversion period on

1 a schedule determined by the court.

2 (6) The defendant shall cause a copy of the petition for a driving while
3 under the influence of intoxicants diversion agreement to be served upon the
4 district attorney or city attorney. The district attorney or city attorney may
5 file with the court, within 15 days after the date of service, a written ob-
6 jection to the petition and a request for a hearing.

7 **SECTION 2. The amendments to ORS 813.210 by section 1 of this**
8 **2017 Act apply to conduct occurring on or after the effective date of**
9 **this 2017 Act.**

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