

# D R A F T

## SUMMARY

Provides court discretion to permanently revoke person's driving privileges under certain circumstances.

### A BILL FOR AN ACT

Relating to permanent revocation of driving privileges; creating new provisions; and amending ORS 809.235.

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

**SECTION 1.** ORS 809.235 is amended to read:

809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in the first or second degree resulting from the operation of a motor vehicle, criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle.

(b) The court [*shall*] **may** order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010 or if the person is convicted for a third or subsequent time of any of the following offenses in any combination:

(A) Driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

1 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

2 (B) A driving under the influence of intoxicants offense in another juris-  
3 diction that involved the impaired driving of a vehicle due to the use of  
4 intoxicating liquor, a controlled substance, an inhalant or any combination  
5 thereof.

6 (C) A driving offense in another jurisdiction that involved operating a  
7 vehicle while having a blood alcohol content above that jurisdiction's per-  
8 missible blood alcohol content.

9 (c) For the purposes of paragraph (b) of this subsection, a conviction for  
10 a driving offense in another jurisdiction based solely on a person under 21  
11 years of age having a blood alcohol content that is lower than the permis-  
12 sible blood alcohol content in that jurisdiction for a person 21 years of age  
13 or older does not constitute a prior conviction.

14 (2)(a) A person whose driving privileges are revoked as described in sub-  
15 section (1) of this section may file a petition in the circuit court of the  
16 county in which the person's driving privileges were revoked for an order  
17 restoring the person's driving privileges. A petition may be filed under this  
18 subsection no sooner than 10 years after the person is:

19 (A) Released on parole or post-prison supervision for the crime for which  
20 the person's driving privileges were revoked and any other crimes arising  
21 out of the same criminal episode;

22 (B) Sentenced to probation for the crime for which the person's driving  
23 privileges were revoked, unless the probation is revoked, in which case the  
24 petition may be filed no sooner than 10 years after the date probation is re-  
25 voked; or

26 (C) Sentenced for the crime for which the person's driving privileges were  
27 revoked, if no other provision of this paragraph applies.

28 (b) Notwithstanding paragraph (a) of this subsection, if during the revo-  
29 cation period for the crime for which the person was convicted the person  
30 is convicted of a criminal offense involving a motor vehicle, the person may  
31 file a petition to restore driving privileges as described in paragraph (a) of

1 this subsection no sooner than 10 years from the date of the most recent  
2 conviction involving a motor vehicle.

3 (c) The district attorney of the county in which the person's driving  
4 privileges were revoked shall be named and served as the respondent in the  
5 petition.

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

9 (a) The nature of the offense for which driving privileges were revoked.

10 (b) The degree of violence involved in the offense.

11 (c) Other criminal and relevant noncriminal behavior of the petitioner  
12 both before and after the conviction that resulted in the revocation.

13 (d) The recommendation of the person's parole officer, which shall be  
14 based in part on a psychological evaluation ordered by the court to deter-  
15 mine whether the person is presently a threat to the safety of the public.

16 (e) Any other relevant factors.

17 (4) The court shall order a petitioner's driving privileges restored if, after  
18 a hearing described in subsection (3) of this section, the court finds by clear  
19 and convincing evidence that the petitioner:

20 (a) Is rehabilitated;

21 (b) Does not pose a threat to the safety of the public; and

22 (c) If the sentence for the crime for which the petitioner's driving privi-  
23 leges were revoked required the petitioner to complete an alcohol or drug  
24 treatment program, has completed an alcohol or drug treatment program in  
25 a facility approved by the Director of the Oregon Health Authority or a  
26 similar program in another jurisdiction.

27 (5) Upon receiving a court order to restore a person's driving privileges,  
28 the department may reinstate driving privileges in accordance with ORS  
29 809.390, except that the department may not reinstate driving privileges of  
30 any person whose privileges are revoked under this section until the person  
31 complies with future responsibility filings.

1        **SECTION 2. The amendments to ORS 809.235 by section 1 of this**  
2        **2017 Act apply to persons convicted of a crime on or after the effective**  
3        **date of this 2017 Act.**

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