

HOUSE AMENDMENTS TO HOUSE BILL 2638

By COMMITTEE ON JUDICIARY

March 10

1 On page 1 of the printed bill, line 6, delete “JANUARY” and insert “JULY”.

2 Delete lines 10 through 19 and insert:

3 **“SECTION 2. Definitions. As used in ORS chapter 813:**

4 **“(1) ‘Ignition interlock device technician’ means an individual employed by a service**
5 **center to install, service, repair, monitor, maintain, calibrate or remove ignition interlock**
6 **devices.**

7 **“(2) ‘Negative report’ includes a report of tampering with an ignition interlock device,**
8 **unauthorized removal of an ignition interlock device, lockout or a test violation recorded by**
9 **an ignition interlock device.**

10 **“(3) ‘Service center’ means a private entity that installs, services, repairs, monitors,**
11 **maintains, calibrates and removes ignition interlock devices in this state.**

12 **“(4) ‘Test violation’ means:**

13 **“(a) For a person who is required to use an ignition interlock device as a condition of a**
14 **driving while under the influence of intoxicants diversion agreement:**

15 **“(A) An attempt to start a vehicle while the person has a blood alcohol content higher**
16 **than 0.00 percent by weight unless a subsequent test performed within 10 minutes registers**
17 **a blood alcohol content of 0.00 percent by weight and a digital image confirms that the same**
18 **person provided both samples; or**

19 **“(B) Failure to pass a random retest due to a blood alcohol content of over 0.00 percent**
20 **by weight unless a subsequent test performed within 10 minutes registers a blood alcohol**
21 **content of 0.00 by weight and a digital image confirms that the same person provided both**
22 **samples;**

23 **“(b) For a person who is required to use an ignition interlock device and is not subject**
24 **to a driving while under the influence of intoxicants diversion agreement:**

25 **“(A) An attempt to start a vehicle while the person has a blood alcohol level of 0.04 per-**
26 **cent by weight or higher unless a subsequent test performed within 10 minutes registers a**
27 **blood alcohol content lower than 0.04 percent by weight and a digital image confirms that the**
28 **same person provided both samples; or**

29 **“(B) Failure to pass a random retest due to a blood alcohol content of 0.02 percent by**
30 **weight or higher unless a subsequent test performed within 10 minutes registers a blood al-**
31 **cohol content lower than 0.02 percent by weight and a digital image confirms that the same**
32 **person provided both samples; or**

33 **“(c) For any person required to use an ignition interlock device, a failure to take a ran-**
34 **dom retest.”.**

35 On page 3, line 2, after “Treasury” insert a comma.

1 In line 3, after the period insert "Interest earned by the Ignition Interlock Device Management
2 Fund shall be credited to the fund."

3 In line 5, delete "2" and insert "3".

4 In line 6, delete "2" and insert "3".

5 On page 5, line 32, after "reports," delete the rest of the line.

6 On page 8, line 29, delete "JANUARY" and insert "JULY".

7 On page 10, delete lines 1 through 15 and insert:

8 "**SECTION 18.** Section 6 of this 2017 Act is amended to read:

9 "**Sec. 6.** (1) The Ignition Interlock Device Management Fund is established in the State Treas-
10 ury, separate and distinct from the General Fund. Interest earned by the Ignition Interlock Device
11 Management Fund shall be credited to the fund.

12 "(2) Moneys in the Ignition Interlock Device Management Fund consist of:

13 "(a) Fees collected under section 3 of this 2017 Act for issuance or renewal of service center
14 certificates under section 3 of this 2017 Act;

15 "(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

16 "(c) Interest and other earnings on moneys in the fund; and

17 "(d) Other amounts deposited in the fund from any source.

18 "(3) Moneys in the fund are continuously appropriated to:

19 "(a) The Department of Transportation for the purpose of fulfilling the department's duties,
20 functions and powers related to specifying requirements for ignition interlock devices as required
21 under ORS 813.600; and

22 "**(b) The Department of State Police for the purpose of** carrying out the regulatory functions
23 of the department relating to service centers, as described in sections 2 to 6 of this 2017 Act.

24 "**SECTION 19.** ORS 813.600, as amended by section 7 of this 2017 Act, is amended to read:

25 "813.600. (1) The [*Department of Transportation*] **Department of State Police**, in consultation
26 with the Transportation Safety Committee, shall establish a program for the use of ignition interlock
27 devices by persons convicted of driving while under the influence of intoxicants and granted hard-
28 ship permits under ORS 807.240 and by persons who have entered into a driving while under the
29 influence of intoxicants diversion agreement.

30 "(2) The department shall adopt rules that specify requirements for ignition interlock devices
31 that may be used and shall publish a list of devices that meet the requirements. The list may include
32 devices that:

33 "(a) Do not impede the safe operation of the vehicle;

34 "(b) Have the fewest opportunities to be bypassed;

35 "(c) Correlate well with established measures of alcohol impairment;

36 "(d) Work accurately and reliably in an unsupervised environment;

37 "(e) Require a deep lung breath sample or other accurate measure of blood alcohol content
38 equivalence;

39 "(f) Resist tampering and give evidence if tampering is attempted;

40 "(g) Are difficult to circumvent, and require premeditation to do so;

41 "(h) Minimize inconvenience to a sober user;

42 "(i) Operate reliably over the range of automobile environments or automobile manufacturing
43 standards;

44 "(j) Are manufactured by a party who is adequately insured for product liability;

45 "(k) Have a label affixed in a prominent location warning that any person tampering with, cir-

1 cumventing or otherwise misusing the device is subject to civil penalty; and

2 “(L) If there is a test violation, record the locational coordinate information of the vehicle, in-
3 cluding latitude and longitude as established by a global positioning system.

4 “(3) The department shall adopt rules for the annual testing of ignition interlock devices. The
5 rules shall establish standards for the devices and for the performance of the devices.

6 “**SECTION 20.** ORS 813.603, as amended by section 12 of this 2017 Act, is amended to read:

7 “813.603. (1) Except as provided in subsection (2) of this section, if an ignition interlock device
8 is ordered or required under ORS 813.602, the person so ordered or required shall pay to the service
9 center the reasonable costs of leasing, installing and maintaining the device. A payment schedule
10 may be established for the person by the [*Department of Transportation*] **Department of State Po-**
11 **lice, in consultation with the Transportation Safety Committee.**

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

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

21 In line 19, delete “19” and insert “21”.

22 In line 25, delete “20” and insert “22”.

23 In line 27, delete “January” and insert “July”.

24 In line 34, delete “21” and insert “23” and after “Act” insert “and ORS 813.600 and 813.603” and
25 delete “18” and insert “20”.

26 In line 35, delete “January” and insert “July”.

27 In line 40, after the first “Act” insert “and ORS 813.600 and 813.603” and delete “18” and insert
28 “20”.

29 In line 44, delete “22” and insert “24”.