

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 961

By COMMITTEE ON JUDICIARY

May 31

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 28.

2 On page 2, delete lines 1 through 17 and insert:

3 **“SECTION 1.** ORS 813.210 is amended to read:

4 “813.210. (1) After an accusatory instrument has been filed charging the defendant with the of-
5 fense of driving while under the influence of intoxicants, a defendant may file with the court a pe-
6 tition for a driving while under the influence of intoxicants diversion agreement described in ORS
7 813.200. The petition:

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

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

15 **“ (c) Notwithstanding paragraph (a) of this subsection, may be filed up to 14 days after**
16 **the date the prosecuting attorney sends the laboratory test results of the defendant’s urine**
17 **or blood sample analysis to the defendant’s attorney or, if the defendant is unrepresented,**
18 **the defendant, if:**

19 **“(A) The accusatory instrument alleges that the defendant was driving under the influ-**
20 **ence of intoxicants and alleges that at the time the conduct occurred the defendant was**
21 **under the influence of a controlled substance or an inhalant;**

22 **“(B) The defendant has not received notice of what the defendant’s blood alcohol content**
23 **was at the time the conduct occurred or if at the time the conduct occurred the defendant**
24 **had less than 0.08 percent by weight of alcohol in the blood; and**

25 **“(C) A police officer obtained a urine or blood sample from the defendant.**

26 “(2) The defendant shall pay to the court, at the time of filing a petition for a driving while
27 under the influence of intoxicants diversion agreement, a filing fee established under ORS 813.240.
28 The court may make provision for payment of the filing fee by the defendant on an installment basis.
29 The court may waive all or part of the filing fee in cases involving indigent defendants. The filing
30 fee paid to the court under this subsection shall be retained by the court if the petition is allowed.
31 The filing fee shall be distributed as provided by ORS 813.240.

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

34 “(4)(a) Unless otherwise provided under paragraph (b) of this subsection, the defendant shall pay
to the court any court-appointed attorney fees agreed to under ORS 813.200 (4)(i). Payments shall

1 be made prior to the end of the diversion period on a schedule determined by the court.

2 “(b) The court may waive all or part of the court-appointed attorney fees agreed to under ORS
3 813.200 (4)(i).

4 “(5) The defendant shall begin paying to the court any restitution ordered under ORS 137.108.
5 Payments shall be made during the diversion period on a schedule determined by the court.

6 “(6) The defendant shall cause a copy of the petition for a driving while under the influence of
7 intoxicants diversion agreement to be served upon the district attorney or city attorney. The district
8 attorney or city attorney may file with the court, within 15 days after the date of service, a written
9 objection to the petition and a request for a hearing.”.

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