

# Senate Bill 961

Sponsored by COMMITTEE ON JUDICIARY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

1  
2 Relating to driving while under the influence of intoxicants diversion agreements; creating new  
3 provisions; and amending ORS 813.210.

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

5 **SECTION 1.** ORS 813.210 is amended to read:

6 813.210. (1) After an accusatory instrument has been filed charging the defendant with the of-  
7 fense of driving while under the influence of intoxicants, a defendant may file with the court a pe-  
8 tition for a driving while under the influence of intoxicants diversion agreement described in ORS  
9 813.200. The petition:

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

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

17 (c) **Notwithstanding paragraph (a) of this subsection, may be filed up to 14 days after the**  
18 **date the defendant's attorney receives the laboratory notes and laboratory test results from**  
19 **the defendant's urine or blood sample analysis, if:**

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

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

25 (C) **The district attorney or city attorney obtained a urine or blood sample from the de-**  
26 **fendant.**

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 The filing fee shall be distributed as provided by ORS 813.240.

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

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

7 (b) The court may waive all or part of the court-appointed attorney fees agreed to under ORS  
8 813.200 (4)(i).

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

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

15 **SECTION 2. The amendments to ORS 813.210 by section 1 of this 2017 Act apply to con-**  
16 **duct occurring on or after the effective date of this 2017 Act.**

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