

Requested by Representative OLSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 2613**

1 On page 1 of the printed bill, line 6, delete “Section 2” and insert
2 “Sections 2 and 2a” and delete “is” and insert “are”.

3 Delete lines 12 and 13 and insert:

4 “(4) Any drug, as defined in ORS 475.005, that is not a controlled sub-
5 stance and that adversely affects a person’s physical or mental faculties to
6 a noticeable or perceptible degree so as to impair an individual’s ability to
7 drive a vehicle.

8 **“SECTION 2a. (1) In a prosecution under ORS 813.010 for driving**
9 **while under the influence of intoxicants other than a prosecution in-**
10 **volving intoxicating liquor, a controlled substance or an inhalant, it**
11 **is an affirmative defense that:**

12 **“(a)(A) The defendant obtained a drug pursuant to a prescription**
13 **issued by a licensed health professional authorized to prescribe drugs.**
14 **The defendant consumed the drug in the prescribed or recommended**
15 **dosage and followed all directions and warnings relating to consump-**
16 **tion of the drug, including directions, if any, from the manufacturer**
17 **of the drug, the pharmacist who provided the drug to the defendant**
18 **and the licensed health care professional who prescribed or recom-**
19 **mended the drug to the defendant; or**

20 **“(B) The defendant obtained a drug that is available without a**
21 **prescription, the defendant consumed the drug in the recommended**

1 dosage and followed all directions and warnings related to the con-
2 sumption of the drug; and

3 “(b) The defendant experienced a reaction to the drug that the de-
4 fendant could not reasonably have anticipated and that caused the
5 defendant to be impaired while driving a vehicle.

6 “(2) A defendant may not introduce evidence of the affirmative de-
7 fense described in subsection (1) of this section unless the defendant
8 gives notice of intent to do so in writing filed with the court and
9 served on the prosecuting attorney at least 21 days before the first
10 trial date set for the case. The notice must specify the drug the de-
11 fendant claims caused the impairment.

12 “(3) By giving notice under subsection (2) of this section, the de-
13 fendant consents to full release to the prosecuting attorney of the
14 defendant’s medical records that relate to the defendant’s consump-
15 tion of the drug, including but not limited to medical records relating
16 to the medical condition for which the drug was used and any medical
17 advice given in association with the drug.

18 “(4) The affirmative defense provided under this section may be
19 asserted only with respect to the impairment that was caused by an
20 unanticipated adverse reaction to the drug specified in the notice given
21 under subsection (2) of this section, and may not be asserted with re-
22 spect to impairment caused by use of the drug specified in the notice
23 in combination with intoxicating liquor, a controlled substance or an
24 inhalant.”.

25 On page 14, line 5, delete “Section 2” and insert “Sections 2 and 2a”.

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