

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2638**

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

3 Delete lines 10 through 19 and insert:

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

5 **“(1) ‘Ignition interlock device technician’ means an individual em-**
6 **ployed by a service center to install, service, repair, monitor, main-**
7 **tain, calibrate or remove ignition interlock devices.**

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

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

15 **“(4) ‘Test violation’ means:**

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

19 **“(A) An attempt to start a vehicle while the person has a blood al-**
20 **cohol content higher than 0.00 percent by weight unless a subsequent**
21 **test performed within 10 minutes registers a blood alcohol content of**

1 0.00 percent by weight and a digital image confirms that the same
2 person provided both samples; or

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

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

11 “(A) An attempt to start a vehicle while the person has a blood al-
12 cohol level of 0.04 percent by weight or higher unless a subsequent test
13 performed within 10 minutes registers a blood alcohol content lower
14 than 0.04 percent by weight and a digital image confirms that the same
15 person provided both samples; or

16 “(B) Failure to pass a random retest due to a blood alcohol content
17 of 0.02 percent by weight or higher unless a subsequent test performed
18 within 10 minutes registers a blood alcohol content lower than 0.02
19 percent by weight and a digital image confirms that the same person
20 provided both samples; or

21 “(c) For any person required to use an ignition interlock device, a
22 failure to take a random retest.”.

23 On page 3, line 3, after the period insert “Interest earned by the Ignition
24 Interlock Device Management Fund shall be credited to the fund.”.

25 In line 5, delete “2” and insert “3”.

26 In line 6, delete “2” and insert “3”.

27 On page 5, line 32, after “reports,” delete the rest of the line.

28 On page 8, line 29, delete “JANUARY” and insert “JULY”.

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

30 **“SECTION 18.** Section 6 of this 2017 Act is amended to read:

1 “**Sec. 6.** (1) The Ignition Interlock Device Management Fund is estab-
2 lished in the State Treasury separate and distinct from the General Fund.
3 Interest earned by the Ignition Interlock Device Management Fund shall be
4 credited to the fund.

5 “(2) Moneys in the Ignition Interlock Device Management Fund consist
6 of:

7 “(a) Fees collected under section 3 of this 2017 Act for issuance or re-
8 newal of service center certificates under section 3 of this 2017 Act;

9 “(b) Amounts appropriated or otherwise transferred to the fund by the
10 Legislative Assembly;

11 “(c) Interest and other earnings on moneys in the fund; and

12 “(d) Other amounts deposited in the fund from any source.

13 “(3) Moneys in the fund are continuously appropriated to:

14 “(a) The Department of Transportation for the purpose of fulfilling the
15 department’s duties, functions and powers related to specifying requirements
16 for ignition interlock devices as required under ORS 813.600; and

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

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

22 “813.600. (1) The [*Department of Transportation*] **Department of State**
23 **Police**, in consultation with the Transportation Safety Committee, shall es-
24 tablish a program for the use of ignition interlock devices by persons con-
25 victed of driving while under the influence of intoxicants and granted
26 hardship permits under ORS 807.240 and by persons who have entered into
27 a driving while under the influence of intoxicants diversion agreement.

28 “(2) The department shall adopt rules that specify requirements for ig-
29 nition interlock devices that may be used and shall publish a list of devices
30 that meet the requirements. The list may include devices that:

- 1 “(a) Do not impede the safe operation of the vehicle;
- 2 “(b) Have the fewest opportunities to be bypassed;
- 3 “(c) Correlate well with established measures of alcohol impairment;
- 4 “(d) Work accurately and reliably in an unsupervised environment;
- 5 “(e) Require a deep lung breath sample or other accurate measure of blood
6 alcohol content equivalence;
- 7 “(f) Resist tampering and give evidence if tampering is attempted;
- 8 “(g) Are difficult to circumvent, and require premeditation to do so;
- 9 “(h) Minimize inconvenience to a sober user;
- 10 “(i) Operate reliably over the range of automobile environments or auto-
11 mobile manufacturing standards;
- 12 “(j) Are manufactured by a party who is adequately insured for product
13 liability;
- 14 “(k) Have a label affixed in a prominent location warning that any person
15 tampering with, circumventing or otherwise misusing the device is subject
16 to civil penalty; and
- 17 “(L) If there is a test violation, record the locational coordinate infor-
18 mation of the vehicle, including latitude and longitude as established by a
19 global positioning system.

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

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

25 “813.603. (1) Except as provided in subsection (2) of this section, if an ig-
26 nition interlock device is ordered or required under ORS 813.602, the person
27 so ordered or required shall pay to the service center the reasonable costs
28 of leasing, installing and maintaining the device. A payment schedule may
29 be established for the person by the [*Department of Transportation*] **Depart-**
30 **ment of State Police, in consultation with the Transportation Safety**

1 **Committee.**

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

9 “(3) The department, by rule, shall establish criteria and procedures for
10 qualification to waive or defer costs described under subsection (1) of this
11 section for indigence. The criteria must be consistent with the standards for
12 indigence adopted by the federal government for purposes of the Supple-
13 mental Nutrition Assistance Program.”.

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

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

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

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

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

20 In line 40, after “Act” insert “and ORS 813.600 and 813.603” and delete
21 “18” and insert “20”.

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

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