

**SENATE AMENDMENTS TO
HOUSE BILL 2079
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON JUDICIARY

May 29

1 On page 1 of the printed bill, line 3, delete “830.545,” and insert “830.325, 830.505, 830.515,
2 830.520, 830.525, 830.545, 830.550, 830.815,”.

3 On page 2, line 23, after the first “to” insert “physically” and after “breath” insert “or urine”
4 and before “field” insert “nontestimonial”.

5 In line 26, after the first “to” insert “physically”.

6 In line 36, after the first “to” insert “physically” and after “breath” insert “or urine”.

7 In line 37, after “a” insert “nontestimonial”.

8 Delete lines 38 through 45.

9 On page 3, delete lines 1 through 23 and insert:

10 “**SECTION 6.** ORS 830.545 is amended to read:

11 “830.545. This section establishes the requirements for information about rights and conse-
12 quences for purposes of ORS 830.505. The following apply to the information about rights and con-
13 sequences:

14 “(1) The information about rights and consequences shall be substantially in the form prepared
15 by the State Marine Board. The board may establish any form it determines appropriate and con-
16 venient.

17 “(2) **Except as provided in subsection (3) of this section,** the information about rights and
18 consequences shall be substantially as follows:

19 “(a) Operating a boat **while** under the influence of intoxicants is a crime in Oregon and the
20 person is subject to criminal penalties if the test shows that the person is under the influence of
21 intoxicants. If the person [*refuses the test or*] fails a **test**, evidence of the [*refusal or*] failure may also
22 be offered against the person.

23 “(b) The person fails the test if the test shows the person is under the influence of intoxicants
24 under Oregon law.

25 “(c) If the person is convicted of operating a boat while under the influence of intoxicants, the
26 person may not operate a boat for a period of time following the conviction.

27 “(d) If the person is convicted of operating a boat while under the influence of intoxicants, **the**
28 **following apply for one year:**

29 “(A) The person is not eligible to apply for any certificate of title, registration or numbering;
30 and [*all certificates of title, registration and numbering necessary to lawfully operate a boat on Oregon*
31 *waters shall be canceled for at least a year. The ineligibility to apply for certificates or the cancellation*
32 *of the certificates shall be substantially longer if the person refuses the test.*]

33 “(B) **The person’s boating safety education card is suspended.**

34 “(e) After taking the test, the person shall have a reasonable opportunity, upon request, for an

1 additional chemical test for blood alcohol content to be performed at the person's own expense by
2 a qualified individual of the person's choosing.

3 **“(3) A person who refuses to submit to a chemical test after being informed of the rights
4 and consequences in subsection (2) of this section shall be provided additional information,
5 substantially as follows:**

6 **“(a) If the person refuses to provide consent to a breath or urine test, and is thereafter
7 requested to provide only physical cooperation to submit to a breath or urine test and the
8 person refuses to physically submit to a test, evidence of that refusal may be offered against
9 the person.**

10 **“(b) If the person refuses to physically submit to the test, the following apply for three
11 years:**

12 **“(A) The person is not eligible to apply for any certificate of title, registration or num-
13 bering; and**

14 **“(B) The person's boating safety education card is suspended.**

15 **“(4) Notwithstanding subsection (3) of this section, the board may not impose the penal-
16 ties described in subsection (3)(b) of this section for refusal to provide a urine sample if the
17 person provides documentation from a physician licensed by this state showing that the
18 person has a medical condition that makes it impossible for the person to provide a sample.**

19 **“[(3)] (5) Nothing in this section prohibits the board from providing additional information con-
20 cerning rights and consequences that the board considers appropriate or convenient.”.**

21 After line 44, insert:

22 **“SECTION 7a. If House Bill 2078 becomes law, section 7 of this 2019 Act (amending ORS
23 830.084) is repealed.”.**

24 On page 4, after line 12, insert:

25 **“SECTION 8a. If House Bill 2078 becomes law, section 8 of this 2019 Act (amending ORS
26 830.092) is repealed.”.**

27 Delete lines 38 through 40 and insert:

28 **“SECTION 12a. If House Bill 2078 becomes law, section 12 of this 2019 Act (amending ORS
29 830.094) is repealed.**

30 **“SECTION 13. ORS 830.325 is amended to read:**

31 **“830.325. (1) [No] A person under the influence of an intoxicating liquor, cannabis, an inhalant
32 or a controlled substance [shall] may not operate, propel or be in actual physical control of any
33 boat on any waters of this state.**

34 **“(2) [No] An owner of a boat or person in charge or in control of a boat [shall] may not au-
35 thorize or knowingly permit the boat to be propelled or operated on any waters of this state by any
36 person who is under the influence of an intoxicating liquor, cannabis, an inhalant or a controlled
37 substance.**

38 **“SECTION 14. ORS 830.505 is amended to read:**

39 **“830.505. (1) Any person who operates a boat on any waters of this state shall be deemed to
40 have given consent to submit to chemical tests of the person's breath for the purpose of determining
41 the alcoholic content of the person's blood if the person is arrested for operating a boat while under
42 the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Tests
43 shall be administered upon the request of a peace officer having reasonable grounds to believe that
44 the person arrested was operating a boat while under the influence of intoxicants while in violation
45 of ORS 830.325 or of a municipal ordinance. Before the test is administered, the person requested**

1 to take the test shall be informed of rights and consequences as described in ORS 830.545.

2 “[2] *No chemical test of the person’s breath shall be given under subsection (1) of this section, to*
3 *a person under arrest for operating a boat while under the influence of intoxicants in violation of ORS*
4 *830.325 or of a municipal ordinance, if the person refuses the request of a peace officer to submit to the*
5 *chemical test after the person has been informed of rights and consequences as described in ORS*
6 *830.545.*”

7 **“(2) Any person who operates a boat on any waters of this state shall be deemed to have**
8 **given consent to submit to chemical tests of the person’s urine for the purpose of deter-**
9 **mining the presence of cannabis, a controlled substance or an inhalant in the person’s body**
10 **if the person is arrested for operating a boat while under the influence of intoxicants while**
11 **in violation of ORS 830.325 or of a municipal ordinance. Tests shall be administered upon the**
12 **request of a peace officer having reasonable grounds to believe that the person arrested was**
13 **operating a boat while under the influence of intoxicants while in violation of ORS 830.325**
14 **or of a municipal ordinance. Before the test is administered, the person requested to take**
15 **the test shall be informed of rights and consequences as described in ORS 830.545.**

16 **“(3) A person asked to give a urine sample shall be given privacy and may not be ob-**
17 **served by a peace officer when producing the sample.**

18 **“(4)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the**
19 **acts committed by a person operating a boat while under the influence of intoxicants, a valid**
20 **chemical analysis of a person’s urine is admissible as evidence and may be used with other**
21 **evidence, if any, to determine whether the person was operating a boat while under the in-**
22 **fluence of intoxicants.**

23 **“(b) A chemical analysis of a person’s urine is valid if analysis is performed in an ac-**
24 **credited or licensed toxicology laboratory.**

25 “[3] (5) Within the time required by the State Marine Board by rule, the arresting officer shall
26 report the following information to the board:

27 “(a) Whether the person refused to **physically** submit to a test.

28 “(b) Whether the person was informed of rights and consequences as described under ORS
29 830.545.

30 “[4] (6) A report required by this section may be made on one or more forms provided by the
31 board.

32 **“(7) Nothing in this section precludes a peace officer from obtaining a chemical test**
33 **through any lawful means for use as evidence in a criminal or civil proceeding including, but**
34 **not limited to, obtaining a search warrant.**

35 **“SECTION 15.** ORS 830.515 is amended to read:

36 “830.515. If a person refuses or fails to **physically** submit to chemical tests of the breath[,
37 *blood*] or urine as required by ORS 830.505 [*and 830.520*], evidence of the person’s refusal or failure
38 to **physically** submit is admissible in any criminal or civil action or proceeding arising out of acts
39 alleged to have been committed while the person was operating a boat while under the influence
40 of **an** intoxicating liquor, cannabis, **an inhalant** or **a** controlled [*substances*] **substance**.

41 **“SECTION 16.** ORS 830.520 is amended to read:

42 “830.520. Nothing in ORS 830.505 is intended to preclude the administration of chemical tests
43 described in this section. A peace officer may obtain a chemical test of the blood to determine the
44 amount of alcohol in any person’s blood or a test of the person’s blood or a test of the person’s blood
45 or urine, or both, to determine the presence of cannabis, **an inhalant** or a controlled substance in

1 the person as provided in the following:

2 “(1) If, when requested by a peace officer, the person expressly consents to such a test.

3 “(2) Notwithstanding subsection (1) of this section, from a person without the person’s consent
4 if:

5 “(a) The peace officer has probable cause to believe that the person was operating a boat while
6 under the influence of an intoxicating liquor, cannabis, **an inhalant** or a controlled substance and
7 that evidence of the offense will be found in the person’s blood or urine; and

8 “(b) The person is unconscious or otherwise in a condition rendering the person incapable of
9 expressly consenting to the test or tests requested.

10 “**SECTION 17.** ORS 830.525 is amended to read:

11 “830.525. In addition to chemical tests of the breath, blood or urine administered under ORS
12 830.505 and 830.520, upon the request of a peace officer, a person shall be permitted upon request,
13 at the person’s own expense, reasonable opportunity to have any licensed physician, licensed pro-
14 fessional nurse or qualified technician, chemist or other qualified person of the person’s own
15 choosing administer a chemical test or tests of the person’s breath or blood for the purpose of de-
16 termining the alcoholic content of the person’s blood or a chemical test or tests of the person’s blood
17 or urine, or both, for the purpose of determining the presence of cannabis, **an inhalant** or a con-
18 trolled substance in the person. The failure or inability to obtain such a test or tests by a person
19 shall not preclude the admission of evidence relating to a test or tests taken upon the request of a
20 peace officer.

21 “**SECTION 18.** ORS 830.550 is amended to read:

22 “830.550. (1) Any person who operates a boat on any waters of this state shall be deemed to
23 have given consent to submit to field sobriety tests upon the request of a peace officer for the pur-
24 pose of determining if the person is under the influence of intoxicants if the peace officer reasonably
25 suspects that the person has committed the offense of operating a boat while under the influence
26 of intoxicants in violation of ORS 830.325 or a municipal ordinance. *[Before the tests are adminis-*
27 *tered, the person requested to take the test shall be informed of the consequences of refusing to take*
28 *or failing to submit to the tests under ORS 830.545.]* **If the person refuses to consent to field**
29 **sobriety tests, the person shall be asked to provide only physical cooperation to submit to**
30 **nontestimonial field sobriety tests and the person shall be informed of the consequences of**
31 **failing to physically submit to those tests under subsection (2) of this section.**

32 “(2) If a person refuses or fails to **physically** submit to **nontestimonial** field sobriety tests as
33 required by subsection (1) of this section **and after the person has been informed of the conse-**
34 **quences of refusing or failing to physically submit**, evidence of the person’s refusal or failure to
35 **physically** submit is admissible in any criminal or civil action or proceeding arising out of
36 allegations that the person was operating a boat while under the influence of intoxicants.

37 “(3) Within the time required by the State Marine Board by rule, the arresting officer shall re-
38 port the following information to the board:

39 “(a) Whether the person refused **or failed** to **physically** submit to a test.

40 “(b) Whether the person was informed of rights and consequences as described under ORS
41 830.545.

42 “(4) A report required by this section may be made on one or more forms provided by the board.

43 “**SECTION 19.** ORS 830.815 is amended to read:

44 “830.815. (1) The State Marine Board may refuse to issue a certificate of title or a certificate
45 of number or registration if the board determines at any time that an applicant for the certificate

1 has:

2 “(a) Given a false statement or false information in applying for the certificate;

3 “(b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.140 and
4 830.700 to 830.870 pertaining to application for certificates; or

5 “(c) Been convicted of operating a boat while under the influence of an intoxicating liquor,
6 cannabis, **an inhalant** or a controlled substance within one year of the date of application or within
7 three years of the date of application if the record of conviction shows that the person willfully
8 refused the request of a peace officer to **physically** submit to chemical testing of the breath **or**
9 **urine** or a **nontestimonial** field sobriety test pursuant to ORS 830.505 and 830.550.

10 “(2) After a hearing upon 10 days’ notice, the board may cancel a certificate of title or certif-
11 icate of number or registration if the board determines at any time that an owner, boat manufac-
12 turer or dealer named in the certificate:

13 “(a) Gave a false statement or false information in applying for the certificate; or

14 “(b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.140,
15 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to
16 830.870 pertaining to applications for certificates.

17 “(3) The board shall automatically suspend the certificate of number for any boat if the board
18 receives notification of a conviction for violation of ORS 830.260 under ORS 830.270. The suspension
19 under this subsection is not subject to hearing. The board shall reinstate a certificate of number
20 suspended under this subsection when the boat owner submits proof satisfactory to the board that
21 the boat has been approved by a person designated by the board as meeting the standards for sound
22 levels established by the board.

23 “(4) If the board receives notification from any court in this state that any person who is
24 charged with a boating offense and who is the registered owner of the boat has failed to appear as
25 required by law or has failed to comply with the judgment of the sentencing court, the board shall
26 take the following actions:

27 “(a) Notify, by certified mail, the registered owner of the boat involved in the offense of the
28 owner’s failure to appear or comply with the judgment of the court. The notification shall include
29 a copy of the citation issued to the owner and will inform the owner that the board will suspend the
30 certificate of number for the boat 45 days from the date of the mailing of the notice by the board.
31 The notice shall include a statement that a hearing may be requested in writing within 10 days of
32 the notice. Any hearing requested under this subsection shall be limited to the issue of whether the
33 person is the person who failed to appear or comply with the judgment of the sentencing court.

34 “(b) The board shall suspend the certificate of number for the boat involved 45 days after mail-
35 ing notice of intent to suspend to the owner of the boat unless a hearing has been requested or,
36 within the 45-day notice period, the board receives notice from the court that the owner has ap-
37 peared in court and is in compliance with any court order entered in the proceeding. Notice from
38 the court may consist of a copy of any receipt or other document issued by the court indicating that
39 the person has appeared and is in compliance with any court order.

40 “(c) Upon suspending any certificate of number under this subsection, the board may charge the
41 owner a reinstatement fee sufficient to cover the actual expenses of the board in processing the
42 transactions described in this section. The board shall reinstate any certificate of number suspended
43 under this subsection upon receiving payment of any reinstatement fee and notice from the court
44 that the owner has appeared and fully satisfied the judgment of the court.

45 “(5) Conviction of operating a boat while under the influence of an intoxicating liquor,

1 cannabis, **an inhalant** or a controlled substance under ORS 830.325 constitutes grounds for sus-
2 pension of a person's certificate of number or registration for all boats owned by the person. The
3 following provisions apply to such suspension:

4 “(a) Upon receipt of a record of conviction for a violation of ORS 830.325, the board shall notify
5 the convicted person that all certificates of number or registration issued in the person's name are
6 suspended. The notice shall include a statement that a hearing may be requested in writing within
7 10 days of the notice. Any hearing requested under this subsection shall be limited to the issue of
8 whether the person is the person convicted.

9 “(b) The suspension shall be for three years from the date of conviction if the record of con-
10 viction shows that the person willfully refused the request of a peace officer to **physically** submit
11 to chemical testing of the breath **or urine** or a **nontestimonial** field sobriety test under ORS
12 830.505 and 830.550. Otherwise the period of suspension shall be for one year from the date of
13 conviction.

14 “**SECTION 20. Section 5 of this 2019 Act and the amendments to ORS 830.315, 830.325,**
15 **830.505, 830.515, 830.520, 830.525, 830.545, 830.550, 830.815, 830.990 and 830.994 by sections 1 to**
16 **3, 6 and 13 to 19 of this 2019 Act apply to conduct occurring on or after the effective date**
17 **of this 2019 Act.”.**

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