

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 999**

1 In line 2 of the printed bill, delete “811.587” and insert “135.815, 813.100,
2 813.120, 813.130, 813.131, 813.132, 813.135, 813.136, 813.140, 813.310, 813.320 and
3 813.602”.

4 Delete lines 4 through 16 and insert:

5 **SECTION 1.** ORS 813.100 is amended to read:

6 813.100. (1) Any person who operates a motor vehicle upon premises open
7 to the public or the highways of this state shall be deemed to have given
8 consent, subject to the implied consent law, to a chemical test of the person’s
9 breath, or of the person’s blood if the person is receiving medical care in a
10 health care facility immediately after a motor vehicle accident, for the pur-
11 pose of determining the alcoholic content of the person’s blood if the person
12 is arrested for driving a motor vehicle while under the influence of
13 intoxicants in violation of ORS 813.010 or of a municipal ordinance. A test
14 shall be administered upon the request of a police officer having reasonable
15 grounds to believe the person arrested to have been driving while under the
16 influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-
17 nance. Before the test is administered the person requested to take the test
18 shall be informed of consequences and rights as described under ORS 813.130.
19 **A person does not revoke the person’s consent by refusing to provide**
20 **a sample.**

21 *[(2) No chemical test of the person’s breath or blood shall be given, under*

1 subsection (1) of this section, to a person under arrest for driving a motor ve-
2 hicle while under the influence of intoxicants in violation of ORS 813.010 or
3 of a municipal ordinance, if the person refuses the request of a police officer
4 to submit to the chemical test after the person has been informed of conse-
5 quences and rights as described under ORS 813.130.]

6 [(3)] (2) If a person refuses to [take] **submit to** a test under this section
7 or if a breath test under this section discloses that the person, at the time
8 of the test, had a level of alcohol in the person's blood that constitutes being
9 under the influence of intoxicating liquor under ORS 813.300 **and the person**
10 **has been informed of rights and consequences as provided under ORS**
11 **813.130**, the person's driving privileges are subject to suspension under ORS
12 813.410 and the police officer shall do all of the following:

13 (a) Immediately take custody of any driver license or permit issued by this
14 state to the person to grant driving privileges.

15 (b) Provide the person with a written notice of intent to suspend, on
16 forms prepared and provided by the Department of Transportation. The
17 written notice shall inform the person of consequences and rights as de-
18 scribed under ORS 813.130.

19 (c) If the person qualifies under ORS 813.110, issue to the person, on be-
20 half of the department, a temporary driving permit described under ORS
21 813.110.

22 (d) Within a period of time required by the department by rule, report
23 action taken under this section to the department and prepare and cause to
24 be delivered to the department a report as described in ORS 813.120, along
25 with the confiscated license or permit and a copy of the notice of intent to
26 suspend.

27 [(4)] (3) If a blood test under this section discloses that the person, at the
28 time of the test, had a level of alcohol in the person's blood that constitutes
29 being under the influence of intoxicating liquor under ORS 813.300, the
30 person's driving privileges are subject to suspension under ORS 813.410 and

1 the police officer shall report to the department within 45 days of the date
2 of arrest that the person failed the blood test.

3 [(5)] (4) Nothing in this section precludes a police officer from obtaining
4 a chemical test of the person's breath or blood through any lawful means for
5 use as evidence in a criminal or civil proceeding including, but not limited
6 to, obtaining a search warrant.

7 **SECTION 2.** ORS 813.130 is amended to read:

8 813.130. This section establishes the requirements for information about
9 rights and consequences for purposes of ORS 813.100 and 813.410. The fol-
10 lowing apply to the information about rights and consequences:

11 (1) The information about rights and consequences shall be substantially
12 in the form prepared by the Department of Transportation. The department
13 may establish any form it determines appropriate and convenient.

14 (2) **Except as provided in subsection (3) of this section,** the informa-
15 tion about rights and consequences shall be substantially as follows:

16 (a) Driving under the influence of intoxicants is a crime in Oregon, and
17 the person is subject to criminal penalties if a test under ORS 813.100 shows
18 that the person is under the influence of intoxicants. If **after being asked**
19 **if the person [refuses a test or] would consent to provide a breath or blood**
20 **test, the person fails a test,** evidence of the [refusal or] failure may also
21 be offered against the person.

22 (b) The person will fail a test under ORS 813.100 for purposes of criminal
23 penalties if the test discloses a blood alcohol content of 0.08 percent or more
24 by weight **of alcohol in the blood of the person as shown by chemical**
25 **analysis of the breath or blood.** The person will fail a test for purposes
26 of the Motorist Implied Consent Law if the test discloses a blood alcohol
27 content of:

28 (A) 0.08 percent or more by weight **of alcohol in the blood of the per-**
29 **son as shown by chemical analysis of the breath or blood** if the person
30 was not driving a commercial motor vehicle;

1 (B) 0.04 percent or more by weight **of alcohol in the blood of the person**
2 **as shown by chemical analysis of the breath or blood** if the person was
3 driving a commercial motor vehicle; or

4 (C) Any amount if the person was under 21 years of age.

5 (c) If the person [*refuses or*] fails a test under ORS 813.100, the person's
6 driving privileges will be suspended. The outcome of a criminal charge for
7 driving under the influence of intoxicants will not affect the suspension.

8 [*The suspension will be substantially longer if the person refuses a test.*]

9 (d) If the person [*refuses a test or*] fails a breath test under ORS 813.100
10 and has an Oregon driver license or permit, the license or permit will be
11 taken immediately and, unless the person does not currently have full valid
12 driving privileges, a temporary driving permit will be issued to the person.

13 [*(e) If the person refuses a test under ORS 813.100, the person is not eligible*
14 *for a hardship permit for at least 90 days, and possibly for three years, de-*
15 *pending on the following factors set forth in ORS 813.430:*]

16 [*(A) Whether the person is presently participating in a driving while under*
17 *the influence of intoxicants diversion program in this state or in any similar*
18 *alcohol or drug rehabilitation program in this or another jurisdiction; or]*

19 [*(B) Whether within the five years preceding the date of arrest any of the*
20 *following occurred:*]

21 [*(i) A suspension of the person's driving privileges under ORS 813.410 or*
22 *482.540 (1981 Replacement Part) became effective;*]

23 [*(ii) The person was convicted of driving while under the influence of*
24 *intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS*
25 *813.010 in another jurisdiction, as described in ORS 813.430;*]

26 [*(iii) The person was convicted of driving while under the influence of*
27 *intoxicants in violation of a municipal ordinance in this state or another ju-*
28 *risdiction, as described in ORS 813.430; or]*

29 [*(iv) The person commenced participating in a driving while under the in-*
30 *fluence of intoxicants diversion program in this state or in any similar alcohol*

1 *or drug rehabilitation program in this or another jurisdiction, as described in*
2 *ORS 813.430.]*

3 *[(f) If the person refuses a breath test under ORS 813.100, or refuses a urine*
4 *test under ORS 813.131 and 813.132, the person is subject to a fine of at least*
5 *\$500 and not more than \$1,000.]*

6 *[(g)] (e) After taking a test under ORS 813.100, the person will have a*
7 *reasonable opportunity, upon request, for an additional chemical test for*
8 *blood alcohol content to be performed at the person's own expense by a*
9 *qualified individual of the person's choosing.*

10 *[(h)] (f) The person has a right to a hearing to challenge the validity of*
11 *the suspension before the suspension becomes effective. The person must*
12 *make a written request to the department for such a hearing. If the person*
13 *wins at the hearing, the person's driving privileges will not be suspended.*
14 *If the person loses at the hearing, the suspension will remain in effect during*
15 *any court review of the hearing.*

16 *[(i)] (g) If the person is issued a temporary driving permit under ORS*
17 *813.100, the information provided to the person shall include the number of*
18 *hours before the driving permit will be effective and the number of days the*
19 *permit will be effective.*

20 *[(j)] (h) The information provided to the person shall include the number*
21 *of days within which a person must request a hearing under ORS 813.410.*

22 *[(k)] (i) The information provided to the person shall include the number*
23 *of days within which a hearing under ORS 813.410 will be held.*

24 *[(L)] (j) The person may possibly qualify for a hardship permit in 30 days*
25 *if the person fails a test, depending on the person's driving record.*

26 **(3) A person who refuses to submit to a chemical test after being**
27 **informed of the rights and consequences in subsection (2) of this sec-**
28 **tion, shall be provided additional information, substantially as follows:**

29 **(a) Driving under the influence of intoxicants is a crime in Oregon,**
30 **and the person is subject to criminal penalties if a test under ORS**

1 **813.100 shows that the person is under the influence of intoxicants. If**
2 **the person refuses to provide consent to a breath or blood test, and**
3 **after being given a request for only physical cooperation to submit to**
4 **a breath or blood test refuses to submit to a test, evidence of the re-**
5 **fusal may also be offered against the person.**

6 (b) **If the person refuses to submit to a test under ORS 813.100, the**
7 **person's driving privileges will be suspended. The outcome of a crimi-**
8 **nal charge for driving under the influence of intoxicants will not affect**
9 **the suspension. The suspension will be substantially longer if a person**
10 **refuses a test.**

11 (c) **If the person refuses to submit to a breath test under ORS**
12 **813.100 and has an Oregon driver license or permit, the license or per-**
13 **mit will be taken immediately and, unless the person does not cur-**
14 **rently have full valid driving privileges, a temporary driving permit**
15 **will be issued to the person.**

16 (d) **If the person refuses to submit to a test under ORS 813.100, the**
17 **person is not eligible for a hardship permit for at least 90 days, and**
18 **possibly for three years, depending on the following factors set forth**
19 **in ORS 813.430:**

20 (A) **Whether the person is presently participating in a driving while**
21 **under the influence of intoxicants diversion program in this state or**
22 **in any similar alcohol or drug rehabilitation program in this or an-**
23 **other jurisdiction; or**

24 (B) **Whether within the five years preceding the date of arrest any**
25 **of the following occurred:**

26 (i) **A suspension of the person's driving privileges under ORS 813.410**
27 **or 482.540 (1981 Replacement Part) became effective;**

28 (ii) **The person was convicted of driving while under the influence**
29 **of intoxicants in violation of ORS 813.010 or the statutory counterpart**
30 **to ORS 813.010 in another jurisdiction, as described in ORS 813.430;**

1 (iii) The person was convicted of driving while under the influence
2 of intoxicants in violation of a municipal ordinance in this state or
3 another jurisdiction, as described in ORS 813.430; or

4 (iv) The person commenced participating in a driving while under
5 the influence of intoxicants diversion program in this state or in any
6 similar alcohol or drug rehabilitation program in this or another ju-
7 risdiction, as described in ORS 813.430.

8 (e) If the person refuses to submit to a breath test under ORS
9 813.100, or refuses to provide a urine sample under ORS 813.131 and
10 813.132, the person is subject to a fine of at least \$500 and not more
11 than \$1,000.

12 (f) The person has a right to a hearing to challenge the validity of
13 the suspension before the suspension becomes effective. The person
14 must make a written request to the department for such a hearing.
15 If the person wins at the hearing, the person's driving privileges will
16 not be suspended. If the person loses at the hearing, the suspension
17 will remain in effect during any court review of the hearing.

18 (g) If the person is issued a temporary driving permit under ORS
19 813.100, the number of hours before the driving permit will be effective
20 and the number of days the permit will be effective.

21 (h) The number of days within which a person must request a
22 hearing under ORS 813.410.

23 (i) The number of days within which a hearing under ORS 813.410
24 will be held.

25 (j) The person may possibly qualify for a hardship permit in 30 days
26 if the person fails a test, depending on the person's driving record.

27 [(3)] (4) If the person is driving a commercial motor vehicle, the infor-
28 mation about rights and consequences shall include[, *in addition to the pro-*
29 *visions of subsection (2) of this section,*] substantially the following:

30 (a) If the person [*refuses a*] **takes a breath or blood** test under ORS

1 813.100 [*or submits to a breath or blood test and*] **after being informed of**
2 **the rights and consequences under subsection (2) of this section, the**
3 **following additional information shall be provided:**

4 (A) If the level of alcohol in the person's blood is 0.04 percent or more
5 by weight **of alcohol in the blood of the person as shown by chemical**
6 **analysis of the breath or blood**, the person's commercial driving privileges
7 or right to apply for commercial driving privileges will be suspended and no
8 hardship permit authorizing the person to drive a commercial motor vehicle
9 will be issued. [*The suspension will be substantially longer if the person re-*
10 *fuses a test.*]

11 [(b)] (B) The suspension of the person's commercial driving privileges or
12 right to apply for commercial driving privileges will be for the person's
13 lifetime if the person [*refuses a test under ORS 813.100 or submits to*] **takes**
14 a breath or blood test and the level of alcohol in the person's blood is 0.04
15 percent or more by weight **of alcohol in the blood of the person as shown**
16 **by chemical analysis of the breath or blood** and:

17 [(A)] (i) The person previously has been convicted of failure to perform
18 the duties of a driver;

19 [(B)] (ii) The person previously has been convicted of a crime punishable
20 as a felony and the person was driving a motor vehicle at the time the of-
21 fense was committed;

22 [(C)] (iii) The person previously has been convicted of driving a commer-
23 cial motor vehicle while the person's commercial driving privileges or right
24 to apply for commercial driving privileges was suspended or revoked for of-
25 fenses committed while operating a commercial motor vehicle;

26 [(D)] (iv) The person previously has been convicted of any degree of
27 murder, manslaughter or criminally negligent homicide resulting from the
28 operation of a commercial motor vehicle or assault in the first degree re-
29 sulting from the operation of a commercial motor vehicle;

30 [(E)] (v) The person previously has been convicted of driving while under

1 the influence of intoxicants;

2 [(F)] (vi) The person's commercial driving privileges previously have been
3 suspended or revoked for refusal to submit to, or failure of, a breath or blood
4 test under ORS 813.100; or

5 [(G)] (vii) The person's right to apply for commercial driving privileges
6 previously has been suspended or revoked for refusal to submit to, or failure
7 of, a breath or blood test under ORS 813.100 resulting from the operation of
8 a commercial motor vehicle.

9 **(b) If the person refuses to submit to a breath or blood test under**
10 **ORS 813.100 and has been informed of the rights and consequences**
11 **under subsection (3) of this section and paragraph (a) of this sub-**
12 **section, the following additional information shall be provided:**

13 **(A) If the person refuses to submit to a test under ORS 813.100, the**
14 **person's commercial driving privileges or right to apply for commer-**
15 **cial driving privileges will be suspended and no hardship permit au-**
16 **thorizing the person to drive a commercial motor vehicle will be**
17 **issued. The suspension will be substantially longer if the person re-**
18 **fuses the test.**

19 **(B) The suspension of the person's commercial driving privileges**
20 **or right to apply for commercial driving privileges will be for the**
21 **person's lifetime if the person refuses to submit to a test under ORS**
22 **813.100 and:**

23 **(i) The person previously has been convicted of failure to perform**
24 **the duties of a driver;**

25 **(ii) The person previously has been convicted of a crime punishable**
26 **as a felony and the person was driving a motor vehicle at the time the**
27 **offense was committed;**

28 **(iii) The person previously has been convicted of driving a com-**
29 **mercial motor vehicle while the person's commercial driving privileges**
30 **or right to apply for commercial driving privileges was suspended or**

1 **revoked for offenses committed while operating a commercial motor**
2 **vehicle;**

3 (iv) **The person previously has been convicted of any degree of**
4 **murder, manslaughter or criminally negligent homicide resulting from**
5 **the operation of a commercial motor vehicle or assault in the first**
6 **degree resulting from the operation of a commercial motor vehicle;**

7 (v) **The person previously has been convicted of driving while under**
8 **the influence of intoxicants;**

9 (vi) **The person's commercial driving privileges previously have**
10 **been suspended or revoked for refusal to submit to, or failure of, a**
11 **breath or blood test under ORS 813.100; or**

12 (vii) **The person's right to apply for commercial driving privileges**
13 **previously has been suspended or revoked for refusal to submit to, or**
14 **failure of, a breath or blood test under ORS 813.100 resulting from the**
15 **operation of a commercial motor vehicle.**

16 [(4)] (5) **Nothing in this section prohibits the department from providing**
17 **additional information concerning rights and consequences that the depart-**
18 **ment considers convenient or appropriate.**

19 **SECTION 3. ORS 813.131 is amended to read:**

20 **813.131. (1) A person may be asked to provide a urine sample under**
21 **ORS 813.140 or subsection (2) of this section.**

22 [(1)] (2) **Any person who operates a motor vehicle upon premises open to**
23 **the public or the highways of this state shall be deemed to have given con-**
24 **sent, subject to the Motorist Implied Consent Law, to a chemical test of the**
25 **person's urine for the purpose of determining the presence of cannabis, a**
26 **controlled substance or an inhalant in the person's body if the person is ar-**
27 **rested for driving while under the influence of intoxicants in violation of**
28 **ORS 813.010 or of a municipal ordinance [and either:]. A person does not**
29 **revoke the person's consent by refusing to provide a urine sample. The**
30 **implied consent applies when:**

1 (a) The person takes the breath test described in ORS 813.100 and the test
2 discloses a blood alcohol content of less than 0.08 percent; or

3 (b) The person is involved in an accident resulting in injury or property
4 damage. A urine test may be requested under this paragraph regardless of
5 whether a breath test has been requested and regardless of the results of a
6 breath test, if one is taken.

7 [(2)] (3) A police officer may not request a urine test unless the officer
8 is certified by the Department of Public Safety Standards and Training as
9 having completed at least eight hours of training in recognition of drug im-
10 paired driving and the officer has a reasonable suspicion that the person
11 arrested has been driving while under the influence of cannabis, a controlled
12 substance, an inhalant or any combination of cannabis, a controlled sub-
13 stance, an inhalant and intoxicating liquor.

14 [(3)] (4) A person asked to give a urine sample shall be given privacy and
15 may not be observed by a police officer when producing the sample.

16 [(4)(a)] (5)(a) At the trial of any civil or criminal action, suit or pro-
17 ceeding arising out of the acts committed by a person driving a motor vehicle
18 while under the influence of intoxicants, a valid chemical analysis of a
19 person's urine is admissible as evidence and may be used with other evi-
20 dence, if any, to determine whether the person was driving while under the
21 influence of intoxicants.

22 (b) A chemical analysis of a person's urine is valid [*under this*
23 *subsection*] if analysis is performed in an accredited or licensed toxicology
24 laboratory.

25 **SECTION 4.** ORS 813.132 is amended to read:

26 813.132. (1) Except as otherwise provided in this section, a refusal to take
27 a urine test requested under ORS 813.131 shall be treated for all purposes
28 as a refusal to take a breath test. A suspension imposed for refusal to take
29 a urine test **under ORS 813.131 (2)** shall be consecutive to any other sus-
30 pension imposed under the Motorist Implied Consent Law. If a person is

1 subject to consecutive suspensions, the length of time that must elapse before
2 the Department of Transportation may reinstate driving privileges or issue
3 a hardship permit under ORS 813.520 shall be doubled.

4 (2) [*Before any test of urine may be administered*] **If a person refuses to**
5 **provide a urine sample** under ORS 813.131 (2), in addition to information
6 described in ORS 813.130, the person asked to take the test shall be informed
7 that if the person refuses the test, the person's driving privileges will be
8 suspended for the same time period and with the same consequences as if the
9 person had refused the breath test and that a suspension for refusal of the
10 urine test will be consecutive to any other suspension under the Motorist
11 Implied Consent Law.

12 (3) Notwithstanding subsection (1) of this section, no suspension of driv-
13 ing privileges shall be imposed for refusal to provide a urine sample if the
14 person provides documentation from a physician licensed by this state
15 showing that the person has a medical condition that makes it impossible for
16 the person to provide a sample.

17 **SECTION 5.** ORS 813.135 is amended to read:

18 813.135. Any person who operates a vehicle upon premises open to the
19 public or the highways of the state shall be deemed to have given consent
20 to submit to field sobriety tests upon the request of a police officer for the
21 purpose of determining if the person is under the influence of intoxicants if
22 the police officer reasonably suspects that the person has committed the of-
23 fense of driving while under the influence of intoxicants in violation of ORS
24 813.010 or a municipal ordinance. [*Before the tests are administered, the per-*
25 *son requested to take the tests*] **If the person refuses to submit to field**
26 **sobriety tests, the person** shall be informed of the consequences of refusing
27 to take or failing to submit to the tests under ORS 813.136.

28 **SECTION 6.** ORS 813.136 is amended to read:

29 813.136. If a person refuses or fails to submit to field sobriety tests as
30 required by ORS 813.135 **after the person has been informed of the con-**

1 **sequences of refusing to submit**, evidence of the person's refusal or failure
2 to submit is admissible in any criminal or civil action or proceeding arising
3 out of allegations that the person was driving while under the influence of
4 intoxicants.

5 **SECTION 7.** ORS 813.140 is amended to read:

6 813.140. Nothing in ORS 813.100, **813.131 or 813.132** is intended to pre-
7 clude the administration of a chemical test described in this section. A police
8 officer may obtain a chemical test of the breath or blood to determine the
9 amount of alcohol in any person's blood or a test of the person's blood or
10 urine, or both, to determine the presence of cannabis, a controlled substance
11 or an inhalant in the person as provided in the following:

12 (1) If, when requested by a police officer, the person expressly consents
13 to such a test.

14 (2) Notwithstanding subsection (1) of this section, from a person without
15 the person's consent if:

16 (a) The police officer has probable cause to believe that the person was
17 driving while under the influence of intoxicants and that evidence of the
18 offense will be found in the person's blood or urine; and

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

21 **SECTION 8.** ORS 813.310 is amended to read:

22 813.310. If a person refuses to submit to a chemical test under ORS 813.100
23 **or 813.131** or refuses to consent to chemical tests under ORS 813.140, evi-
24 dence of the person's refusal is admissible in any civil or criminal action,
25 suit or proceeding arising out of acts alleged to have been committed while
26 the person was driving a motor vehicle on premises open to the public or the
27 highways while under the influence of intoxicants.

28 **SECTION 9.** ORS 813.320 is amended to read:

29 813.320. (1) The provisions of the implied consent law, except ORS 813.300,
30 shall not be construed by any court to limit the introduction of otherwise

1 competent, relevant evidence in any civil action, suit or proceedings or in
2 any criminal action other than a violation of ORS 813.010 or a similar mu-
3 nicipal ordinance in proceedings under ORS 813.410.

4 (2) The provisions of the implied consent law shall not be construed by
5 any court to limit the introduction of otherwise competent, relevant evidence
6 of the amount of alcohol in the blood of a defendant in a prosecution for
7 driving while under the influence of intoxicants. [if:]

8 [(a) *The evidence results from a test of blood taken from the defendant*
9 *while the defendant was hospitalized or otherwise receiving medical care,*
10 *whether or not the defendant consented to the drawing of blood or to the test;*
11 *or]*

12 [(b) *The evidence is obtained pursuant to a search warrant.*]

13 **SECTION 10.** ORS 813.602 is amended to read:

14 813.602. (1) Subject to subsection (2) of this section, when a person is
15 convicted of driving while under the influence of intoxicants in violation of
16 ORS 813.010 or of a municipal ordinance, the Department of Transportation,
17 in addition to any other requirement, shall require that the person have in-
18 stalled and be using an approved ignition interlock device in any vehicle
19 operated by the person:

20 (a) Before the person is eligible for a hardship permit. The requirement
21 is a condition of the hardship permit for the duration of the hardship permit.

22 (b) For a first conviction, for one year after the ending date of the sus-
23 pension or revocation caused by the conviction. Violation of the condition
24 imposed under this paragraph is a Class A traffic violation.

25 (c) For a second or subsequent conviction, for two years after the ending
26 date of the suspension or revocation caused by the conviction. Violation of
27 the condition imposed under this paragraph is a Class A traffic violation.

28 (2) When a person is convicted of a crime or multiple crimes as described
29 in this subsection, the department, in addition to any other requirement,
30 shall require that the person have installed and be using an approved ig-

1 nition interlock device in any vehicle operated by the person for five years
2 after the ending date of the longest running suspension or revocation caused
3 by any of the convictions. Violation of the condition imposed under this
4 subsection is a Class A traffic violation. A person is subject to this sub-
5 section when the person is convicted of:

6 (a) Driving while under the influence of intoxicants in violation of ORS
7 813.010 or of a municipal ordinance and any of the following crimes as part
8 of the same criminal episode:

9 (A) Any degree of murder.

10 (B) Manslaughter in the first or second degree.

11 (C) Criminally negligent homicide.

12 (D) Assault in the first degree.

13 (b) Aggravated vehicular homicide.

14 (c) Driving while under the influence of intoxicants in violation of ORS
15 813.010 or of a municipal ordinance and the person's driving privileges are
16 revoked under ORS 809.235 (1)(b) and later ordered restored under ORS
17 809.235 (4).

18 (3)(a) Except as provided in paragraph (c) of this subsection, as a condi-
19 tion of a driving while under the influence of intoxicants diversion agree-
20 ment:

21 (A) The court shall require that an approved ignition interlock device be
22 installed and used in any vehicle operated by the person during the period
23 of the agreement when the person has driving privileges if:

24 (i) [*The person submitted to*] A chemical test of the person's breath or
25 blood [*as required under ORS 813.100 and the test*] disclosed a blood alcohol
26 content of 0.08 percent or more by weight **of alcohol in the blood of the**
27 **person as shown by chemical analysis of the breath or blood;**

28 (ii) The person refused to submit to a chemical test of the person's breath
29 or blood; or

30 (iii) [*The person submitted to*] A chemical test of the person's breath,

1 blood or urine [*as required under ORS 813.100 or 813.131 and the test*] dis-
2 closed a blood alcohol content of more than 0.00 **but less than 0.08** percent
3 by weight [*but less than 0.08 percent by weight*] **of alcohol in the blood of**
4 **the person as shown by chemical analysis of the breath or blood** and
5 disclosed the presence of cannabis, a controlled substance or an inhalant.

6 (B) The court may require that an approved ignition interlock device be
7 installed and used in any vehicle operated by the person during the period
8 of the agreement when the person has driving privileges if the person sub-
9 mitted to a chemical test of the person's breath, blood or urine [*as required*
10 *under ORS 813.100 or 813.131*] and the test disclosed a blood alcohol content
11 below 0.08 percent by weight **of alcohol in the blood of the person as**
12 **shown by chemical analysis of the breath or blood.**

13 (b) In addition to any action taken under ORS 813.255, violation of the
14 condition imposed under this subsection is a Class A traffic violation.

15 (c) A court may exempt a person from the condition in a diversion
16 agreement to have installed and be using an ignition interlock device if the
17 court determines that the person meets the requirements for a medical ex-
18 emption in accordance with rules adopted by the department under this sec-
19 tion. A person granted a medical exemption under this paragraph shall carry
20 proof of the medical exemption with the person while operating any vehicle.

21 (4) The department shall adopt rules permitting medical exemptions from
22 the requirements of installation and use of an ignition interlock device under
23 this section.

24 (5) When a person is required to install an ignition interlock device under
25 subsection (2) of this section, the service center providing the device shall
26 provide notice of any installation or removal of the device or any tampering
27 with the device to:

28 (a) The supervising court or to the court's designee, including but not
29 limited to an agency or organization certified by the Oregon Health Au-
30 thority under ORS 813.025; and

1 (b) The district attorney or the city prosecutor.

2 **SECTION 11.** ORS 135.815 is amended to read:

3 135.815. (1) Except as otherwise provided in ORS 135.855 and 135.873, the
4 district attorney shall disclose to a represented defendant the following ma-
5 terial and information within the possession or control of the district attor-
6 ney:

7 (a) The names and addresses of persons whom the district attorney in-
8 tends to call as witnesses at any stage of the trial, together with their rele-
9 vant written or recorded statements or memoranda of any oral statements
10 of such persons.

11 (b) Any written or recorded statements or memoranda of any oral state-
12 ments made by the defendant, or made by a codefendant if the trial is to be
13 a joint one.

14 (c) Any reports or statements of experts, made in connection with the
15 particular case, including results of physical or mental examinations and of
16 scientific tests, experiments or comparisons which the district attorney in-
17 tends to offer in evidence at the trial.

18 (d) Any books, papers, documents, photographs or tangible objects:

19 (A) Which the district attorney intends to offer in evidence at the trial;

20 or

21 (B) Which were obtained from or belong to the defendant.

22 (e) If actually known to the district attorney, any record of prior criminal
23 convictions of persons whom the district attorney intends to call as wit-
24 nesses at the trial; and the district attorney shall make a good faith effort
25 to determine if such convictions have occurred.

26 (f) All prior convictions of the defendant known to the state that would
27 affect the determination of the defendant's criminal history for sentencing
28 under rules of the Oregon Criminal Justice Commission.

29 (g) Any material or information that tends to:

30 (A) Exculpate the defendant;

1 (B) Negate or mitigate the defendant's guilt or punishment; or
2 (C) Impeach a person the district attorney intends to call as a witness
3 at the trial.

4 (2)(a) The disclosure required by subsection (1)(g) of this section shall
5 occur without delay after arraignment and prior to the entry of any guilty
6 plea pursuant to an agreement with the state. If the existence of the material
7 or information is not known at that time, the disclosure shall be made upon
8 discovery without regard to whether the represented defendant has entered
9 or agreed to enter a guilty plea.

10 (b) Nothing in subsection (1)(g) of this section:
11 (A) Expands any obligation under a statutory provision or the Oregon or
12 United States Constitution to disclose, or right to disclosure of, personnel
13 or internal affairs files of law enforcement officers.

14 (B) Imposes any obligation on the district attorney to provide material
15 or information beyond the obligation imposed by the Oregon and United
16 States Constitutions.

17 (3) Except as otherwise provided in ORS 135.855 and 135.873, in prose-
18 cutions for violation of ORS 813.010 in which an instrument was used to test
19 a person's breath, blood or urine to determine the alcoholic content of the
20 person's blood the district attorney shall disclose to a represented defendant
21 at least the following material and information within the possession or
22 control of the district attorney:

23 (a) Any report prepared by a police officer relating to field tests, inter-
24 views, observations and other information relating to the charged offense;

25 (b) Any report relating to the test results;

26 (c) A copy of the form provided to the defendant under ORS 813.100
27 [(3)(b)] **(2)(b)**; and

28 (d) Any checklist prepared by the operator of the instrument for the test.

29 (4)(a) If a defendant is not represented by a lawyer, the district attorney
30 shall disclose to the defendant all of the information described in subsections

1 (1) and (3) of this section except for the personal identifiers of the victim and
2 any witnesses.

3 (b) Notwithstanding paragraph (a) of this subsection, the district attorney
4 shall disclose the personal identifiers of the victim and any witnesses if the
5 trial court orders the disclosure. A trial court shall order the district at-
6 torney to disclose the personal identifiers of the victim and any witnesses
7 if the trial court finds that:

8 (A) The defendant has requested the information; and

9 (B)(i) The victim or witness is a business or institution and disclosure of
10 the information would not represent a risk of harm to the victim or witness;
11 or

12 (ii) The need for the information cannot reasonably be met by other
13 means.

14 (5)(a) Unless authorized by the trial court to disclose the information, a
15 lawyer representing a defendant, or a representative of the lawyer, may not
16 disclose to the defendant personal identifiers of a victim or witness obtained
17 under subsections (1) and (3) of this section.

18 (b) The trial court shall order the lawyer, or representative of the lawyer,
19 to disclose to the defendant the personal identifiers of a victim or witness
20 if the court finds that:

21 (A) The defendant's lawyer has requested the district attorney to disclose
22 the information to the defendant;

23 (B) The district attorney has refused to disclose the information to the
24 defendant; and

25 (C) The need for the information cannot reasonably be met by other
26 means.

27 (6) As used in this section:

28 (a) "Personal identifiers" means:

29 (A) In relation to a witness, the witness's address, telephone number, So-
30 cial Security number and date of birth and the identifying number of the

1 witness's depository account at a financial institution, as defined in ORS
2 706.008, or credit card account.

3 (B) In relation to a victim, the victim's address, electronic mail address,
4 telephone number, Social Security number, date of birth, any user names or
5 other identifying information associated with the victim's social media ac-
6 counts and the identifying number of the victim's depository account at a
7 financial institution, as defined in ORS 706.008, or credit card account.

8 (b) "Representative of the lawyer" has the meaning given that term in
9 ORS 40.225.

10 (c) "Represented defendant" means a defendant who is represented by a
11 lawyer in a criminal action.

12 (d) "Social media" has the meaning given that term in ORS 659A.330.

13 **SECTION 12.** ORS 813.120 is amended to read:

14 813.120. (1) A report required by ORS 813.100 shall disclose substantially
15 all of the following information:

16 (a) Whether the person, at the time the person was requested to submit
17 to a test, was under arrest for driving a motor vehicle while under the in-
18 fluence of intoxicants in violation of ORS 813.010 or of a municipal ordi-
19 nance.

20 (b) Whether the police officer had reasonable grounds to believe, at the
21 time the request was made, that the person arrested had been driving under
22 the influence of intoxicants in violation of ORS 813.010 or of a municipal
23 ordinance.

24 (c) Whether the person refused to submit to a test or if the person sub-
25 mitted to a breath or blood test whether the level of alcohol in the person's
26 blood, as shown by the test, was sufficient to constitute being under the in-
27 fluence of intoxicating liquor under ORS 813.300.

28 (d) Whether the person was driving a commercial motor vehicle and re-
29 fused to submit to a test or if the person submitted to a breath or blood test
30 whether the level of alcohol in the person's blood, as shown by the test, was

1 0.04 percent or more by weight.

2 (e) Whether the person was informed of consequences and rights as de-
3 scribed under ORS 813.130.

4 (f) Whether the person was given written notice of intent to suspend re-
5 quired by ORS 813.100 [(3)(b)] **(2)(b)**.

6 (g) If the arrested person took a test, a statement that the person con-
7 ducting the test was appropriately qualified.

8 (h) If the arrested person took a test, a statement that any methods, pro-
9 cedures and equipment used in the test comply with any requirements under
10 ORS 813.160.

11 (2) A report required by ORS 813.100 may be made in one or more forms
12 specified by the Department of Transportation.

13
