

Senate Bill 1503

Corrected Sponsor

Sponsored by Senators COURTNEY, PROZANSKI; Senator ROBLAN (Presession filed.)

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**.

Provides that person commits offense of driving while under influence of intoxicants if person has blood alcohol level of 0.08 percent or more by weight within two hours after driving vehicle. Creates affirmative defense.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS
3 813.010 and 813.300; and declaring an emergency.

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

5 **SECTION 1.** ORS 813.010 is amended to read:

6 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if
7 the person:

8 (a) Drives a vehicle while the person:

9 [(a)] (A) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by
10 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

11 [(b)] (B) Is under the influence of intoxicating liquor, cannabis, a controlled substance or an
12 inhalant; or

13 [(c)] (C) Is under the influence of any combination of intoxicating liquor, cannabis, a controlled
14 substance and an inhalant[.]; **or**

15 (b) **Within two hours after driving a vehicle, has 0.08 percent or more by weight of alco-**
16 **hol in the blood of the person, as shown by chemical analysis of the breath or blood of the**
17 **person made under ORS 813.100, 813.140 or 813.150.**

18 (2) A person may not be convicted of driving while under the influence of intoxicants on the
19 basis of being under the influence of a controlled substance or an inhalant unless the fact that the
20 person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory
21 instrument and is either proved at trial or is admitted by the person through a guilty plea.

22 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-
23 dition to this section.

24 (4) Except as provided in subsection (5) of this section, the offense described in this section,
25 driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon
26 any premises open to the public.

27 (5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense
28 was committed in a motor vehicle and the person has, at least three times in the 10 years prior to
29 the date of the current offense, been convicted of, or been found to be within the jurisdiction of the

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 juvenile court for an act that if committed by an adult would be, any of the following offenses in
2 any combination:

3 (A) Driving while under the influence of intoxicants in violation of:

4 (i) This section; or

5 (ii) The statutory counterpart to this section in another jurisdiction.

6 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
7 impaired driving or operation of a vehicle, an aircraft or a boat due to the use of intoxicating liquor,
8 cannabis, a controlled substance, an inhalant or any combination thereof.

9 (C) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a
10 boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol con-
11 tent.

12 (b) For the purposes of paragraph (a) of this subsection, a conviction or adjudication for a
13 driving offense in another jurisdiction based solely on a person under 21 years of age having a blood
14 alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a
15 person 21 years of age or older does not constitute a prior conviction or adjudication.

16 (6) In addition to any other sentence that may be imposed, the court shall impose one or more
17 of the following fines on a person convicted of driving while under the influence of intoxicants as
18 follows:

19 (a) For a person's first conviction, a minimum of \$1,000.

20 (b) For a person's second conviction, a minimum of \$1,500.

21 (c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sen-
22 tenced to a term of imprisonment.

23 (d)(A) For a person who drives a vehicle while the person has 0.15 percent or more by weight
24 of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the
25 person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

26 **(B) For a person who, within two hours after driving a vehicle, has 0.15 percent or more**
27 **by weight of alcohol in the blood of the person, as shown by chemical analysis of the breath**
28 **or blood of the person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.**

29 (7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a
30 person convicted of driving while under the influence of intoxicants if:

31 (a) The current offense was committed in a motor vehicle; and

32 (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least
33 three years younger than the person driving the motor vehicle.

34 **(8) It is an affirmative defense to a charge of violating subsection (1)(b) of this section**
35 **that the defendant consumed a sufficient quantity of alcohol after the time of driving a ve-**
36 **hicle and before the administration of a chemical analysis of the defendant's breath or blood**
37 **to cause the defendant's blood alcohol content to be 0.08 percent or more within two hours**
38 **after driving. The court may not admit evidence of this defense unless the defendant notifies**
39 **the prosecution in writing at least 21 days before the first trial setting of defendant's intent**
40 **to assert the affirmative defense.**

41 **SECTION 2.** ORS 813.300 is amended to read:

42 813.300. (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts
43 committed by a person driving a motor vehicle while under the influence of intoxicants, if the
44 amount of alcohol in the person's blood at the time alleged is less than 0.08 percent by weight of
45 alcohol as shown by chemical analysis of the person's breath or blood, it is indirect evidence that

1 may be used with other evidence, if any, to determine whether or not the person was then under the
2 influence of intoxicants.

3 (2) Not less than 0.08 percent by weight of alcohol in a person's blood constitutes being under
4 the influence of intoxicating liquor.

5 (3) Notwithstanding subsection (2) of this section, for purposes of the Motorist Implied Consent
6 Law as defined in ORS 801.010, for a person who is under 21 years of age, any amount of alcohol
7 in the blood constitutes being under the influence of intoxicating liquor.

8 (4) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100
9 milliliters of blood or based upon grams of alcohol per 210 liters of breath.

10 (5) **ORS 813.010 (1)(b) may not be construed to limit the admissibility of any evidence of**
11 **the amount of alcohol in a person's blood as shown by chemical analysis of the person's**
12 **breath or blood, in any civil or criminal action, suit or proceeding arising out of the acts**
13 **committed by the person driving a vehicle while under the influence of intoxicants.**

14 **SECTION 3. The amendments to ORS 813.010 and 813.300 by sections 1 and 2 of this 2020**
15 **Act apply to conduct occurring on or after the effective date of this 2020 Act.**

16 **SECTION 4. This 2020 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
18 **on its passage.**

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