

# D R A F T

## SUMMARY

Corrects references to Motorist Implied Consent Law.

### A BILL FOR AN ACT

1  
2 Relating to driving while under the influence of intoxicants; amending ORS  
3 813.100 and 813.320.

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

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*] **Motorist Implied Consent**  
9 **Law**, to a chemical test of the person's breath, or of the person's blood if the  
10 person is receiving medical care in a health care facility immediately after  
11 a motor vehicle accident, for the purpose of determining the alcoholic con-  
12 tent of the person's blood if the person is arrested for driving a motor vehicle  
13 while under the influence of intoxicants in violation of ORS 813.010 or of a  
14 municipal ordinance. A test shall be administered upon the request of a po-  
15 lice officer having reasonable grounds to believe the person arrested to have  
16 been driving while under the influence of intoxicants in violation of ORS  
17 813.010 or of a municipal ordinance. Before the test is administered the per-  
18 son requested to take the test shall be informed of consequences and rights  
19 as described under ORS 813.130.

20 (2) If a person refuses to submit to a test under this section or if a breath  
21 test under this section discloses that the person, at the time of the test, had  
22 a level of alcohol in the person's blood that constitutes being under the in-

1 fluence of intoxicating liquor under ORS 813.300 and the person has been  
2 informed of rights and consequences as provided under ORS 813.130, the  
3 person's driving privileges are subject to suspension under ORS 813.410 and  
4 the police officer shall do all of the following:

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

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

11 (c) If the person qualifies under ORS 813.110, issue to the person, on be-  
12 half of the department, a temporary driving permit described under ORS  
13 813.110.

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

19 (3) If a blood test under this section discloses that the person, at the time  
20 of the test, had a level of alcohol in the person's blood that constitutes being  
21 under the influence of intoxicating liquor under ORS 813.300, the person's  
22 driving privileges are subject to suspension under ORS 813.410 and the police  
23 officer shall report to the department within 45 days of the date of arrest  
24 that the person failed the blood test.

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

29 **SECTION 2.** ORS 813.320 is amended to read:

30 813.320. (1) The provisions of the [*implied consent law*] **Motorist Implied**  
31 **Consent Law**, except ORS 813.300, [*shall*] **may** not be construed by any

1 court to limit the introduction of otherwise competent, relevant evidence in  
2 any civil action, suit or proceedings or in any criminal action other than a  
3 violation of ORS 813.010 or a similar municipal ordinance in proceedings  
4 under ORS 813.410.

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

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