

A-Engrossed
Senate Bill 568

Ordered by the Senate March 13
Including Senate Amendments dated March 13

Sponsored by Senator GELSER BLOUIN; Senator DEMBROW (Pre-session 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.

Provides that court is not required to hold hearing on petition to vacate defendant's requirement to install and use ignition interlock device while participating in diversion program. **Prescribes requirements for motion.** Prescribes circumstances requiring hearing.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants diversion agreements; creating new
3 provisions; and amending ORS 813.645.

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

5 **SECTION 1.** ORS 813.645 is amended to read:

6 813.645. (1) A defendant may apply by motion to the court in which a driving while under the
7 influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order va-
8 cating the requirement to install and use an ignition interlock device if the defendant:

9 (a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for
10 at least six consecutive months and provides a certificate to the court from the ignition interlock
11 device manufacturer's representative stating that the device has not recorded a negative report; and

12 (b) The defendant has entered into and is in compliance with any treatment program that the
13 person is required to participate in as a condition of diversion.

14 (2) The defendant shall cause to be served on the district attorney or city prosecutor a copy of
15 the motion for an order vacating the requirement to install and use an ignition interlock device
16 under ORS 813.602 (3). The copy of the motion shall be served on the district attorney or city
17 prosecutor at the time the motion is filed with the court. The district attorney or city prosecutor
18 may contest the motion.

19 **(3) A motion under this section must include the following information:**

20 (a) **An affidavit or declaration that states that the defendant has complied with the con-**
21 **dition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive**
22 **months with no negative results;**

23 (b) **A copy of the certificate described in subsection (1)(a) of this section from the ignition**
24 **interlock device manufacturer's representative stating that the device has not recorded a**
25 **negative report; and**

26 (c) **If the defendant is required to participate in a treatment program as a condition of**
27 **diversion, a letter signed by a treatment counselor from the treatment program in which the**
28 **defendant is enrolled stating that the defendant has entered into and is in compliance with**

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 **the treatment program.**

2 [(3)] (4) The court [shall] **may** hold a hearing on a petition filed in accordance with subsection
3 (1) of this section. **The court shall hold a hearing if the district attorney or city prosecutor:**

4 **(a) Contests the motion;**

5 **(b) Requests a hearing; and**

6 **(c) Files a written objection with the court within 10 days after the date of service.**

7 **(5)** In determining whether to grant the petition, the court shall consider:

8 (a) The nature of the underlying crime for which driving privileges were suspended.

9 (b) The blood alcohol content of the defendant at the time of the arrest.

10 (c) Any other relevant factors.

11 [(4)] **(6)** The court may vacate a defendant's requirement to install and use an ignition interlock
12 device under ORS 813.602 (3) if, after a hearing described in subsection [(3)] (4) of this section, the
13 court finds by a preponderance of the evidence that the petitioner:

14 (a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for
15 at least six consecutive months with no negative reports; and

16 (b) Has entered into and is in compliance with any treatment program required as a condition
17 of diversion.

18 [(5)] **(7)** When a court vacates a defendant's requirement to install and use an ignition interlock
19 device under ORS 813.602 (3), the court shall notify the Department of Transportation.

20 **SECTION 2. The amendments to ORS 813.645 by section 1 of this 2023 Act apply to pe-**
21 **titions filed on or after the effective date of this 2023 Act.**

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