

# Senate Bill 670

Sponsored by Senator KNOPP (at the request of Aelea Lois) (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 **as introduced**.

Provides that person whose driving privileges are permanently revoked may request hearing to restore privileges after three years instead of 10 years, if revocation was imposed following conviction of felony driving while under influence or third or subsequent offense of driving while under influence.

Requires person to install ignition interlock device for period of 10 years if person's driving privileges are restored.

## A BILL FOR AN ACT

1  
2 Relating to driving privileges; creating new provisions; and amending ORS 809.235, 813.602, 813.620,  
3 813.630, 813.635 and 813.645.

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

5 **SECTION 1.** ORS 809.235 is amended to read:

6 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving  
7 privileges be permanently revoked if the person is convicted of any degree of murder and the court  
8 finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the  
9 death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in  
10 the first or second degree resulting from the operation of a motor vehicle, criminally negligent  
11 homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from  
12 the operation of a motor vehicle.

13 (b) The court shall order that a person's driving privileges be permanently revoked if the person  
14 is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010  
15 or if the person is convicted for a third or subsequent time of any of the following offenses in any  
16 combination:

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

18 (i) ORS 813.010; or

19 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

20 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the  
21 impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, psilocybin, a controlled  
22 substance, an inhalant or any combination thereof.

23 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a  
24 blood alcohol content above that jurisdiction's permissible blood alcohol content.

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

29 (2)(a) A person whose driving privileges are revoked as described in subsection (1)(a) of this

**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 section may file a petition in the circuit court of the county in which the person's driving privileges  
 2 were revoked for an order restoring the person's driving privileges. A petition may be filed under  
 3 this subsection no sooner than 10 years after the person is:

4 (A) Released on parole or post-prison supervision for the crime for which the person's driving  
 5 privileges were revoked and any other crimes arising out of the same criminal episode;

6 (B) Sentenced to probation for the crime for which the person's driving privileges were revoked,  
 7 unless the probation is revoked, in which case the petition may be filed no sooner than 10 years  
 8 after the date probation is revoked; or

9 (C) Sentenced for the crime for which the person's driving privileges were revoked, if no other  
 10 provision of this paragraph applies.

11 (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the  
 12 crime for which the person was convicted the person is convicted of a criminal offense involving a  
 13 motor vehicle, the person may file a petition to restore driving privileges as described in paragraph  
 14 (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving  
 15 a motor vehicle.

16 (c) The district attorney of the county in which the person's driving privileges were revoked  
 17 shall be named and served as the respondent in the petition.

18 **(3)(a) A person whose driving privileges are revoked as described in subsection (1)(b) of  
 19 this section may file a petition in the circuit court of the county in which the person's  
 20 driving privileges were revoked for an order restoring the person's driving privileges. A pe-  
 21 tition may be filed under this subsection no sooner than three years after the person is:**

22 **(A) Released on parole or post-prison supervision for the crime for which the person's  
 23 driving privileges were revoked and any other crimes arising out of the same criminal epi-  
 24 sode;**

25 **(B) Sentenced to probation for the crime for which the person's driving privileges were  
 26 revoked, unless the probation is revoked, in which case the petition may be filed no sooner  
 27 than three years after the date probation is revoked; or**

28 **(C) Sentenced for the crime for which the person's driving privileges were revoked, if no  
 29 other provision of this paragraph applies.**

30 **(b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for  
 31 the crime for which the person was convicted the person is convicted of a criminal offense  
 32 involving a motor vehicle, the person may file a petition to restore driving privileges as de-  
 33 scribed in paragraph (a) of this subsection no sooner than three years from the date of the  
 34 most recent conviction involving a motor vehicle.**

35 **(c) The district attorney of the county in which the person's driving privileges were re-  
 36 voked shall be named and served as the respondent in the petition.**

37 **[(3)] (4) The court shall hold a hearing on a petition filed in accordance with [subsection (2)]  
 38 subsection (2) or (3) of this section. In determining whether to grant the petition, the court shall  
 39 consider:**

40 **(a) The nature of the offense for which driving privileges were revoked.**

41 **(b) The degree of violence involved in the offense.**

42 **(c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the  
 43 conviction that resulted in the revocation.**

44 **(d) The recommendation of the person's parole officer, which shall be based in part on a psy-  
 45 chological evaluation ordered by the court to determine whether the person is presently a threat to**

1 the safety of the public.

2 (e) Any other relevant factors.

3 [(4)] (5) The court shall order a petitioner’s driving privileges restored if, after a hearing de-  
 4 scribed in subsection [(3)] (4) of this section, the court finds by clear and convincing evidence that  
 5 the petitioner:

6 (a) Is rehabilitated;

7 (b) Does not pose a threat to the safety of the public; and

8 (c) If the sentence for the crime for which the petitioner’s driving privileges were revoked re-  
 9 quired the petitioner to complete an alcohol or drug treatment program, has completed an alcohol  
 10 or drug treatment program in a facility approved by the Director of the Oregon Health Authority  
 11 or a similar program in another jurisdiction.

12 [(5)] (6) Upon receiving a court order to restore a person’s driving privileges, the department  
 13 may reinstate driving privileges in accordance with ORS 809.390, except that the department may  
 14 not reinstate driving privileges of any person whose privileges are revoked under this section until  
 15 the person complies with future responsibility filings.

16 **SECTION 2.** ORS 813.602 is amended to read:

17 813.602. (1) Subject to [subsection (2)] **subsection (2) and (3)** of this section, when a person is  
 18 convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or of a  
 19 municipal ordinance, the Department of Transportation, in addition to any other requirement, shall  
 20 require that the person have installed and be using an approved ignition interlock device in any  
 21 vehicle operated by the person:

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

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

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

30 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the  
 31 department, in addition to any other requirement, shall require that the person have installed and  
 32 be using an approved ignition interlock device in any vehicle operated by the person for [five] **10**  
 33 years after the ending date of the longest running suspension or revocation caused by any of the  
 34 convictions. Violation of the condition imposed under this subsection is a Class A traffic violation.  
 35 A person is subject to this subsection when the person is convicted of:

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

38 (A) Any degree of murder.

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

40 (C) Criminally negligent homicide.

41 (D) Assault in the first degree.

42 (b) Aggravated vehicular homicide.

43 [(c) *Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal*  
 44 *ordinance and the person’s driving privileges are revoked under ORS 809.235 (1)(b) and later ordered*  
 45 *restored under ORS 809.235 (4).*]

1       **(3) When a person is convicted of driving while under the influence of intoxicants in vi-**  
 2 **olation of ORS 813.010 or of a municipal ordinance and the person's driving privileges are**  
 3 **revoked under ORS 809.235 (1)(b) and later ordered restored under ORS 809.235 (5), the de-**  
 4 **partment, in addition to any other requirement, shall require that the person have installed**  
 5 **and be using an approved ignition interlock device in any vehicle operated by the person for**  
 6 **10 years after the ending date of the longest running suspension or revocation caused by any**  
 7 **of the convictions. Violation of the condition imposed under this subsection is a Class A**  
 8 **traffic violation.**

9       ~~[(3)(a)]~~ **(4)(a)** Except as provided in paragraph (c) of this subsection, as a condition of a driving  
 10 while under the influence of intoxicants diversion agreement:

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

14       (i) A chemical test of the person's breath or blood disclosed a blood alcohol content of 0.08  
 15 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of  
 16 the breath or blood;

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

18       (iii) A chemical test of the person's breath, blood or urine disclosed a blood alcohol content of  
 19 more than 0.00 but less than 0.08 percent by weight of alcohol in the blood of the person as shown  
 20 by chemical analysis of the breath or blood and disclosed the presence of cannabis, psilocybin, a  
 21 controlled substance or an inhalant.

22       (B) The court may require that an approved ignition interlock device be installed and used in  
 23 any vehicle operated by the person during the period of the agreement when the person has driving  
 24 privileges if the person submitted to a chemical test of the person's breath, blood or urine and the  
 25 test disclosed a blood alcohol content below 0.08 percent by weight of alcohol in the blood of the  
 26 person as shown by chemical analysis of the breath or blood.

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

29       (c) A court may exempt a person from the condition in a diversion agreement to have installed  
 30 and be using an ignition interlock device if the court determines that the person meets the re-  
 31 quirements for a medical exemption in accordance with rules adopted by the department under this  
 32 section. A person granted a medical exemption under this paragraph shall carry proof of the medical  
 33 exemption with the person while operating any vehicle.

34       ~~[(4)]~~ **(5)** The department shall adopt rules permitting medical exemptions from the requirements  
 35 of installation and use of an ignition interlock device under this section.

36       ~~[(5)]~~ **(6)** When a person is required to install an ignition interlock device under subsection (2)  
 37 **or (3)** of this section, the manufacturer's representative providing the device shall provide notice  
 38 of any installation or removal of the device or any tampering with the device to:

39       (a) The supervising court or to the court's designee, including but not limited to an agency or  
 40 organization certified by the Oregon Health Authority under ORS 813.025;

41       (b) The district attorney or the city prosecutor; and

42       (c) The Oregon State Police.

43       **SECTION 3.** ORS 813.620 is amended to read:

44       813.620. (1) At the end of the suspension or revocation resulting from a conviction for driving  
 45 while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the

1 Department of Transportation shall suspend the driving privileges or right to apply for driving  
2 privileges of a person who has not submitted proof to the department that an ignition interlock de-  
3 vice has been installed in any vehicle operated by the person or who tampers with an ignition  
4 interlock device after it has been installed.

5 (2) Subject to ORS 813.635, if the department imposes a suspension under subsection (1) of this  
6 section for failing to submit proof of installation, the suspension continues until the department re-  
7 ceives proof that the ignition interlock device has been installed. If the department does not receive  
8 proof that the ignition interlock device has been installed, the suspension shall continue for:

9 (a) One year after the ending date of the suspension resulting from the first conviction;

10 (b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the  
11 suspension resulting from a second or subsequent conviction; or

12 (c) Five years after the ending date of the longest running suspension or revocation resulting  
13 from a conviction described in ORS 813.602 (2) **or** (3).

14 (3) Subject to ORS 813.635, if the department imposes a suspension under subsection (1) of this  
15 section for tampering with an ignition interlock device, the suspension continues until:

16 (a) One year after the ending date of the suspension resulting from the first conviction;

17 (b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the  
18 suspension resulting from a second or subsequent conviction; or

19 (c) Five years after the ending date of the longest running suspension or revocation resulting  
20 from a conviction described in ORS 813.602 (2) **or** (3).

21 (4) A person whose driving privileges or right to apply for privileges is suspended under sub-  
22 section (1) of this section is entitled to administrative review, as described in ORS 809.440.

23 **SECTION 4.** ORS 813.630 is amended to read:

24 813.630. (1) This section applies only to a person who has had an ignition interlock device in-  
25 stalled as a condition of a driving while under the influence of intoxicants diversion agreement un-  
26 der ORS 813.602 [(3)] (4).

27 (2) After an ignition interlock device is installed, the manufacturer's representative that in-  
28 stalled the device shall notify:

29 (a) The court that required the device to be installed or the court's designee, including but not  
30 limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025;  
31 and

32 (b) The district attorney or city prosecutor.

33 (3) Notice of the installation must be given within seven business days of installing the ignition  
34 interlock device.

35 (4) Each time a manufacturer's representative has access to an ignition interlock device that the  
36 manufacturer's representative installed, the manufacturer's representative shall download all reports  
37 recorded on the device. If the manufacturer's representative downloads a negative report, the  
38 manufacturer's representative shall submit the negative report, in a form prescribed by rule by the  
39 department, to:

40 (a) The court that required the device to be installed or the court's designee, including but not  
41 limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025;

42 (b) The district attorney or city prosecutor; and

43 (c) The Department of State Police.

44 (5) The manufacturer's representative shall submit a negative report as provided in subsection  
45 (4) of this section within seven business days of downloading the report.

1        **SECTION 5.** ORS 813.635 is amended to read:

2        813.635. (1) Notwithstanding ORS 813.602 [(1)(b) or (c), (2) or (3)] **(1)(b) or (c), (2), (3) or (4)**, the  
 3 requirement to have an ignition interlock device installed in a vehicle continues until the person  
 4 submits to the Department of Transportation a certificate from the ignition interlock device  
 5 manufacturer's representative stating that the device did not record a negative report for the last  
 6 90 consecutive days of the required installation period. The department shall remove the ignition  
 7 interlock device requirement from the person's driving record as soon as practicable after the de-  
 8 partment receives the certificate.

9        (2) Except as provided in subsection (3) of this section, if there is a negative report during the  
 10 last 90 consecutive days, the person shall continue to use an ignition interlock device beyond the  
 11 period required under ORS 813.602 [(1)(b) or (c), (2) or (3)] **(1)(b) or (c), (2), (3) or (4)** until the  
 12 person submits a certificate, in a form prescribed by rule by the department, to the department from  
 13 the ignition interlock device manufacturer's representative stating that the device has not recorded  
 14 a negative report for 90 consecutive days, beginning on the date of the most recent negative report.

15        (3) If there is a negative report during the last 90 consecutive days that the person believes is  
 16 in error, the person may request that the Department of State Police review the negative report.  
 17 The department shall adopt rules prescribing the form and manner for submitting a request under  
 18 this subsection. If after review the department determines that the negative report was the result  
 19 of an error, the department shall correct the report and submit a corrected report to the person or  
 20 shall direct the manufacturer's representative to correct the report and the manufacturer's repre-  
 21 sentative shall submit the corrected report to the person.

22        (4) This section does not apply to a defendant who is granted an order to vacate the requirement  
 23 to install an ignition interlock device under ORS 813.645.

24        **SECTION 6.** ORS 813.645 is amended to read:

25        813.645. (1) A defendant may apply by motion to the court in which a driving while under the  
 26 influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order va-  
 27 cating the requirement to install and use an ignition interlock device if the defendant:

28        (a) Has complied with the condition of the diversion agreement described in ORS 813.602 [(3)]  
 29 **(4)** for at least six consecutive months and provides a certificate to the court from the ignition  
 30 interlock device manufacturer's representative stating that the device has not recorded a negative  
 31 report; and

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

34        (2) The defendant shall cause to be served on the district attorney or city prosecutor a copy of  
 35 the motion for an order vacating the requirement to install and use an ignition interlock device  
 36 under ORS 813.602 [(3)] **(4)**. The copy of the motion shall be served on the district attorney or city  
 37 prosecutor at the time the motion is filed with the court. The district attorney or city prosecutor  
 38 may contest the motion.

39        (3) The court shall hold a hearing on a petition filed in accordance with subsection (1) of this  
 40 section. In determining whether to grant the petition, the court shall consider:

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

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

43        (c) Any other relevant factors.

44        (4) The court may vacate a defendant's requirement to install and use an ignition interlock de-  
 45 vice under ORS 813.602 [(3)] **(4)** if, after a hearing described in subsection (3) of this section, the

1 court finds by a preponderance of the evidence that the petitioner:

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

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

6 (5) When a court vacates a defendant's requirement to install and use an ignition interlock de-  
7 vice under ORS 813.602 [(3)] (4), the court shall notify the Department of Transportation.

8 **SECTION 7. (1) The amendments to ORS 809.235 by section 1 of this 2023 Act apply to**  
9 **revocations imposed before, on or after the effective date of this 2023 Act.**

10 **(2) The amendments to ORS 813.602, 813.620, 813.630, 813.635 and 813.645 by sections 2 to**  
11 **6 of this 2023 Act apply to persons whose driving privileges are restored under ORS 809.235**  
12 **(5) on or after the effective date of this 2023 Act.**

13