

HB 2316-1  
(LC 2256)  
3/7/23 (HE/ps)

Requested by Representative KROPF

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2316**

1 On page 1 of the printed bill, delete lines 3 and 4 and insert “ORS 137.129,  
2 146.113, 163.118, 163.185, 801.272, 807.060, 809.235, 809.730, 813.010, 813.011,  
3 813.020, 813.040, 813.131, 813.215, 813.235, 813.300, 813.400, 813.430, 813.602 and  
4 821.250.”.

5 Delete lines 6 through 27 and delete pages 2 through 13 and insert:

6 **“SECTION 1. Section 2 of this 2023 Act is added to and made a part  
7 of the Oregon Vehicle Code.**

8 **“SECTION 2. ‘Intoxicant’ means:**

9 **“(1) Intoxicating liquor;**

10 **“(2) A controlled substance;**

11 **“(3) An inhalant;**

12 **“(4) Cannabis;**

13 **“(5) Psilocybin; or**

14 **“(6) Any drug, as defined in ORS 475.005, that, when used either  
15 alone or in combination with intoxicating liquor, an inhalant,  
16 psilocybin, cannabis or a controlled substance, adversely affects a  
17 person’s mental or physical faculties to a noticeable or perceptible  
18 degree.**

19 **“SECTION 3. ORS 813.010 is amended to read:**

20 **“813.010. (1) A person commits the offense of driving while under the in-  
21 fluence of intoxicants if the person drives a vehicle while the person:**

1       “(a) Has 0.08 percent or more by weight of alcohol in the blood of the  
2 person as shown by chemical analysis of the breath or blood of the person  
3 made under ORS 813.100, 813.140 or 813.150;

4       “[(b) *Is under the influence of intoxicating liquor, cannabis, psilocybin, a*  
5 *controlled substance or an inhalant;*]

6       “[(c) *Is under the influence of any combination of intoxicating liquor,*  
7 *cannabis, psilocybin, a controlled substance and an inhalant; or]*

8       “**(b) Is under the influence of an intoxicant or a combination of**  
9 **intoxicants; or**

10       “[(d)] **(c)** Within two hours after driving a vehicle, and without consum-  
11 ing alcohol in the intervening time period, has 0.08 percent or more by  
12 weight of alcohol in the blood of the person, as shown by chemical analysis  
13 of the breath or blood of the person made under ORS 813.100, 813.140 or  
14 813.150.

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

21       “(3) A person convicted of the offense described in this section is subject  
22 to ORS 813.020 in addition to this section.

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

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

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

3 “(A) Driving while under the influence of intoxicants in violation of this  
4 section.

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

6 “(C) A driving under the influence of intoxicants offense in another ju-  
7 risdiction that involved the impaired driving or operation of a vehicle, an  
8 aircraft or a boat due to the use of [*intoxicating liquor, cannabis, psilocybin,*  
9 *a controlled substance, an inhalant or any combination thereof*] **an intoxicant**  
10 **or a combination of intoxicants.**

11 “(D) A driving offense in another jurisdiction that involved operating a  
12 vehicle, an aircraft or a boat while having a blood alcohol content above  
13 that jurisdiction’s permissible blood alcohol content.

14 “(b) For the purposes of paragraph (a) of this subsection, a conviction or  
15 adjudication for a driving offense in another jurisdiction based solely on a  
16 person under 21 years of age having a blood alcohol content that is lower  
17 than the permissible blood alcohol content in that jurisdiction for a person  
18 21 years of age or older does not constitute a prior conviction or adjudi-  
19 cation.

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

23 “(a) **If the current offense was committed while riding a bicycle, a**  
24 **minimum of \$500.**

25 “[*(a)*] (b) For a person’s first conviction **if the current offense was**  
26 **committed while operating a vehicle other than a bicycle,** a minimum  
27 of \$1,000.

28 “[*(b)*] (c) For a person’s second conviction **if the current offense was**  
29 **committed while operating a vehicle other than a bicycle,** a minimum  
30 of \$1,500.

1       “[(c)] (d) For a person’s third or subsequent conviction **if the current**  
2 **offense was committed while operating a vehicle other than a bicycle,**  
3 a minimum of \$2,000 if the person is not sentenced to a term of  
4 imprisonment.

5       “[(d)(A)] (e)(A) For a person who drives a vehicle, **other than a bicycle,**  
6 while the person has 0.15 percent or more by weight of alcohol in the blood  
7 of the person as shown by chemical analysis of the breath or blood of the  
8 person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

9       “(B) For a person who, within two hours after driving a vehicle, **other**  
10 **than a bicycle,** and without consuming alcohol in the intervening time pe-  
11 riod, has 0.15 percent or more by weight of alcohol in the blood of the per-  
12 son, as shown by chemical analysis of the breath or blood of the person made  
13 under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.

14       “(C) For a person who rides a bicycle while the person has 0.15  
15 percent or more by weight of alcohol in the blood of the person as  
16 shown by chemical analysis of the breath or blood of the person made  
17 under ORS 813.140 or 813.150, a minimum of \$1,000.

18       “(D) For a person who, within two hours after riding a bicycle, and  
19 without consuming alcohol in the intervening time period, has 0.15  
20 percent or more by weight of alcohol in the blood of the person, as  
21 shown by chemical analysis of the breath or blood of the person made  
22 under ORS 813.140 or 813.150, a minimum of \$1,000.

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

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

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

30       “(8) When the court enters a judgment of conviction for driving

1 while under the influence of intoxicants, the court shall indicate in the  
2 judgment document whether the person was riding a bicycle.

3 “(9) As used in this section, ‘bicycle’ does not include electric as-  
4 sisted bicycles.

5 **“SECTION 4.** Section 5 of this 2023 Act is added to and made a part  
6 of the Oregon Vehicle Code.

7 **“SECTION 5.** (1) As used in this section, ‘drug’ has the meaning  
8 given that term in ORS 475.005.

9 **“(2) In a prosecution under ORS 813.010 for driving while under the**  
10 **influence of intoxicants other than a prosecution involving**  
11 **intoxicating liquor, a controlled substance, an inhalant, cannabis or**  
12 **psilocibin, it is an affirmative defense that:**

13 **“(a)(A) The defendant obtained a drug pursuant to a prescription**  
14 **issued by a licensed health care professional authorized to prescribe**  
15 **drugs and that the defendant consumed the drug in the prescribed or**  
16 **recommended dosage and followed all directions and warnings relating**  
17 **to the consumption of the drug, including directions, if any, from the**  
18 **manufacturer of the drug, the pharmacist who provided the drug to**  
19 **the defendant and the licensed health care professional who prescribed**  
20 **or recommended the drug to the defendant; or**

21 **“(B) The defendant obtained a drug that is available without a**  
22 **prescription and that the defendant consumed the drug in the recom-**  
23 **mended dosage and followed all directions and warnings relating to the**  
24 **consumption of the drug; and**

25 **“(b) The defendant experienced a reaction to the drug that the de-**  
26 **fendant could not reasonably have anticipated and that caused the**  
27 **defendant’s mental or physical faculties to be adversely affected to a**  
28 **noticeable and perceptible degree while driving a vehicle.**

29 **“(3) A defendant may not introduce evidence of the affirmative de-**  
30 **fense described in subsection (2) of this section unless the defendant**

1 gives notice in writing of intent to do so. The notice must be filed  
2 with the court and served on the prosecuting attorney at least 45 days  
3 before the first trial date set for the case unless the parties agree  
4 otherwise or the court authorizes a later date for good cause shown,  
5 but under no circumstances less than 21 days before trial. The notice  
6 must specify the drug the defendant consumed and contact informa-  
7 tion for any medical provider who advised the defendant regarding  
8 that drug.

9 “(4) The affirmative defense described in subsection (2) of this sec-  
10 tion may be asserted only with respect to a drug that is specified in  
11 the notice given under subsection (3) of this section, and may not be  
12 asserted when intoxicating liquor, a controlled substance, an inhalant,  
13 cannabis or psilocybin, or any combination of intoxicating liquor, a  
14 controlled substance, an inhalant, cannabis or psilocybin, is pleaded  
15 in the accusatory instrument.

16 “**SECTION 6.** ORS 813.011 is amended to read:

17 “813.011. (1) Driving under the influence of intoxicants under ORS 813.010  
18 shall be a Class C felony if at least two times in the 10 years prior to the  
19 date of the current offense the defendant has been convicted of any of the  
20 following offenses in any combination:

21 “(a) Driving under the influence of intoxicants in violation of ORS  
22 813.010, or its statutory counterpart in another jurisdiction.

23 “(b) A driving under the influence of intoxicants offense in another ju-  
24 risdiction that involved the impaired driving or operation of a vehicle, an  
25 aircraft or a boat due to the use of [*intoxicating liquor, cannabis, a controlled*  
26 *substance, an inhalant or any combination thereof*] **an intoxicant, as defined**  
27 **in section 2 of this 2023 Act, or a combination of intoxicants.**

28 “(c) An offense in another jurisdiction that involved driving or operating  
29 a vehicle, an aircraft or a boat while having a blood alcohol content above  
30 that jurisdiction’s permissible blood alcohol content.

1 “(2) Once a person has been sentenced for a Class C felony under this  
2 section, the 10-year time limitation is eliminated and any subsequent episode  
3 of driving under the influence of intoxicants shall be a Class C felony re-  
4 gardless of the amount of time which intervenes.

5 “(3) Upon conviction for a Class C felony under this section, the person  
6 shall be sentenced to a mandatory minimum term of incarceration of 90 days,  
7 without reduction for any reason.

8 **“SECTION 7.** ORS 801.272 is amended to read:

9 “801.272. ‘Field sobriety test’ means a physical or mental test, approved  
10 by the Department of State Police by rule after consultation with the De-  
11 partment of Public Safety Standards and Training, that enables a police of-  
12 ficer or trier of fact to screen for or detect probable impairment from  
13 [*intoxicating liquor, cannabis, psilocybin, a controlled substance or an*  
14 *inhalant, or any combination of intoxicating liquor, cannabis, psilocybin, a*  
15 *controlled substance and an inhalant*] **an intoxicant or a combination of**  
16 **intoxicants.**

17 **“SECTION 8.** ORS 807.060 is amended to read:

18 “807.060. The Department of Transportation may not grant driving privi-  
19 leges to a person under a license if the person is not eligible under this  
20 section. The following are not eligible for a license:

21 “(1) A person under 16 years of age.

22 “(2)(a) A person under 18 years of age who is not an emancipated minor,  
23 unless the application of the person is signed by the person’s mother, father  
24 or legal guardian. A person who signs an application under this paragraph  
25 may have the driving privileges canceled as provided under ORS 809.320.

26 “(b) A person under 18 years of age who does not meet the requirements  
27 of ORS 807.065.

28 “(3) Notwithstanding subsection (2) of this section, a person under 18  
29 years of age is not eligible for a commercial driver license.

30 “(4) A person the department determines has a problem condition involv-

1 ing [*alcohol, cannabis, psilocybin, controlled substances or inhalants*]  
2 **intoxicants** as described under ORS 813.040.

3 “(5) A person the department reasonably believes has a mental or physical  
4 condition or impairment that affects the person’s ability to safely operate a  
5 motor vehicle upon the highways.

6 “(6) A person the department reasonably believes is unable to understand  
7 highway signs that warn, regulate or direct traffic.

8 “(7) A person who is required to make future responsibility filings but  
9 has not made filings as required.

10 “(8) A person who cannot be issued a license under the Driver License  
11 Compact under ORS 802.540.

12 “(9) A person who is not subject to the Driver License Compact under  
13 ORS 802.540 but whose driving privileges are currently under suspension or  
14 revocation in any other state upon grounds which, if committed in this state,  
15 would be grounds for the suspension or revocation of the driving privileges  
16 of the person.

17 “(10) A person who has been declared a habitual offender under ORS  
18 809.640. A person declared not eligible to be licensed under this subsection  
19 may become eligible by having eligibility restored under ORS 809.640.

20 “(11) A person whose driving privileges are canceled in this state under  
21 ORS 809.310 until the person is eligible under ORS 809.310.

22 “(12) A person while the person’s driving privileges are revoked in this  
23 state.

24 “(13) A person during a period when the person’s driving privileges are  
25 suspended in this state.

26 “(14) A person who holds a current out-of-state license or driver permit  
27 or a valid Oregon license or driver permit. A person who is not eligible un-  
28 der this subsection may become eligible by surrendering the license, driver  
29 permit or out-of-state license or driver permit to the department before is-  
30 suance of the license. Nothing in this subsection authorizes a person to



1 continue to operate a motor vehicle on the basis of an out-of-state license  
2 or permit if the person is required by ORS 807.062 to obtain an Oregon li-  
3 cense or permit.

4 “(15) A person who has not complied with the requirements and respon-  
5 sibilities created by citation for or conviction of a traffic offense in another  
6 jurisdiction if an agreement under ORS 802.530 authorizes the department to  
7 withhold issuance of a license.

8 “(16) A person who has not complied with the requirement of ORS 813.022  
9 (1).

10 **“SECTION 9.** ORS 809.235 is amended to read:

11 “809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order  
12 that a person’s driving privileges be permanently revoked if the person is  
13 convicted of any degree of murder and the court finds that the person in-  
14 tentionally used a motor vehicle as a dangerous weapon resulting in the  
15 death of the victim, or if the person is convicted of aggravated vehicular  
16 homicide, manslaughter in the first or second degree resulting from the op-  
17 eration of a motor vehicle, criminally negligent homicide resulting from the  
18 operation of a motor vehicle or assault in the first degree resulting from the  
19 operation of a motor vehicle.

20 “(b) The court shall order that a person’s driving privileges be perma-  
21 nently revoked if the person is convicted of felony driving while under the  
22 influence of intoxicants in violation of ORS 813.010 or if the person is con-  
23 victed for a third or subsequent time of any of the following offenses in any  
24 combination:

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

26 “(i) ORS 813.010; or

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

28 “(B) A driving under the influence of intoxicants offense in another ju-  
29 risdiction that involved the impaired driving of a vehicle due to the use of  
30 [*intoxicating liquor, cannabis, psilocybin, a controlled substance, an inhalant*

1 *or any combination thereof*] **an intoxicant or a combination of**  
2 **intoxicants.**

3 “(C) A driving offense in another jurisdiction that involved operating a  
4 vehicle while having a blood alcohol content above that jurisdiction’s per-  
5 missible blood alcohol content.

6 “(c) For the purposes of paragraph (b) of this subsection, a conviction for  
7 a driving offense in another jurisdiction based solely on a person under 21  
8 years of age having a blood alcohol content that is lower than the permis-  
9 sible blood alcohol content in that jurisdiction for a person 21 years of age  
10 or older does not constitute a prior conviction.

11 “(2)(a) A person whose driving privileges are revoked as described in  
12 subsection (1) of this section may file a petition in the circuit court of the  
13 county in which the person’s driving privileges were revoked for an order  
14 restoring the person’s driving privileges. A petition may be filed under this  
15 subsection no sooner than 10 years after the person is:

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

19 “(B) Sentenced to probation for the crime for which the person’s driving  
20 privileges were revoked, unless the probation is revoked, in which case the  
21 petition may be filed no sooner than 10 years after the date probation is re-  
22 voked; or

23 “(C) Sentenced for the crime for which the person’s driving privileges  
24 were revoked, if no other provision of this paragraph applies.

25 “(b) Notwithstanding paragraph (a) of this subsection, if during the re-  
26 vocation period for the crime for which the person was convicted the person  
27 is convicted of a criminal offense involving a motor vehicle, the person may  
28 file a petition to restore driving privileges as described in paragraph (a) of  
29 this subsection no sooner than 10 years from the date of the most recent  
30 conviction involving a motor vehicle.

1       “(c) The district attorney of the county in which the person’s driving  
2 privileges were revoked shall be named and served as the respondent in the  
3 petition.

4       “(3) The court shall hold a hearing on a petition filed in accordance with  
5 subsection (2) of this section. In determining whether to grant the petition,  
6 the court shall consider:

7       “(a) The nature of the offense for which driving privileges were revoked.

8       “(b) The degree of violence involved in the offense.

9       “(c) Other criminal and relevant noncriminal behavior of the petitioner  
10 both before and after the conviction that resulted in the revocation.

11       “(d) The recommendation of the person’s parole officer, which shall be  
12 based in part on a psychological evaluation ordered by the court to deter-  
13 mine whether the person is presently a threat to the safety of the public.

14       “(e) Any other relevant factors.

15       “(4) The court shall order a petitioner’s driving privileges restored if, af-  
16 ter a hearing described in subsection (3) of this section, the court finds by  
17 clear and convincing evidence that the petitioner:

18       “(a) Is rehabilitated;

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

20       “(c) If the sentence for the crime for which the petitioner’s driving priv-  
21 ileges were revoked required the petitioner to complete an alcohol or drug  
22 treatment program, has completed an alcohol or drug treatment program in  
23 a facility approved by the Director of the Oregon Health Authority or a  
24 similar program in another jurisdiction.

25       “(5) Upon receiving a court order to restore a person’s driving privileges,  
26 the department may reinstate driving privileges in accordance with ORS  
27 809.390, except that the department may not reinstate driving privileges of  
28 any person whose privileges are revoked under this section until the person  
29 complies with future responsibility filings.

30       **“(6) The provisions of this section do not apply to convictions of**

1 **driving while under the influence of intoxicants if the offense was**  
2 **committed while the person was riding a bicycle.**

3 **“(7) For the purposes of this section, ‘bicycle’ does not include an**  
4 **electric assisted bicycle.**

5 **“SECTION 10.** ORS 809.730 is amended to read:

6 “809.730. (1) A motor vehicle may be seized and forfeited if the person  
7 operating the vehicle is arrested or issued a citation for driving while under  
8 the influence of intoxicants in violation of ORS 813.010 and the person,  
9 within three years prior to the arrest or issuance of the citation, has been  
10 convicted of:

11 “(a) Driving while under the influence of intoxicants in violation of:

12 “(A) ORS 813.010; or

13 “(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

14 “(b) A driving under the influence of intoxicants offense in another ju-  
15 risdiction that involved the impaired driving of a vehicle due to the use of  
16 [*intoxicating liquor, cannabis, psilocybin, a controlled substance, an inhalant*  
17 *or any combination thereof*] **an intoxicant or a combination of**  
18 **intoxicants;**

19 “(c) A driving offense in another jurisdiction that involved operating a  
20 vehicle while having a blood alcohol content above that jurisdiction’s per-  
21 missible blood alcohol content;

22 “(d) Murder, manslaughter, criminally negligent homicide or assault that  
23 resulted from the operation of a motor vehicle in this state or in another  
24 jurisdiction; or

25 “(e) Aggravated vehicular homicide under ORS 163.149 or aggravated  
26 driving while suspended or revoked under ORS 163.196.

27 “(2) For the purposes of subsection (1) of this section, a conviction for a  
28 driving offense in another jurisdiction based solely on a person under 21  
29 years of age having a blood alcohol content that is lower than the permis-  
30 sible blood alcohol content in that jurisdiction for a person 21 years of age

1 or older does not constitute a prior conviction.

2 “(3) All seizure and forfeiture proceedings under this section shall be  
3 conducted in accordance with ORS chapter 131A.

4 “**SECTION 11.** ORS 813.040 is amended to read:

5 “813.040. This section establishes, for purposes of ORS 471.432 and 807.060,  
6 when a person has a problem condition involving [*alcohol, cannabis,*  
7 *psilocybin, controlled substances or inhalants*] **intoxicants**. For purposes of  
8 ORS 471.432 and 807.060, a person has a problem condition involving [*alcohol,*  
9 *cannabis, psilocybin, controlled substances or inhalants*] **intoxicants** if it is  
10 determined that the person has a problem condition in which the person’s  
11 health or that of others is substantially impaired or endangered or the  
12 person’s social or economic function is substantially disrupted because of the  
13 person’s:

14 “(1) Habitual or periodic use of:

15 “(a) Alcoholic beverages;

16 “(b) Cannabis, unless the person holds a registry identification card as  
17 defined in ORS 475C.777; or

18 “(c) Psilocybin; or

19 “(2) Use of or loss of the ability to control the use of controlled sub-  
20 stances, inhalants or other substances with abuse potential, including a  
21 condition that may have developed:

22 “(a) A physical dependence in which the body requires a continuing sup-  
23 ply of a controlled substance, an inhalant or a drug to avoid characteristic  
24 withdrawal symptoms; or

25 “(b) A psychological dependence characterized by an overwhelming mental  
26 desire for continued use of a controlled substance, an inhalant or a drug.

27 “**SECTION 12.** ORS 813.131 is amended to read:

28 “813.131. (1) A person may be asked to provide a urine sample under ORS  
29 813.140 or subsection (2) of this section.

30 “(2) Any person who operates a motor vehicle upon premises open to the

1 public or the highways of this state shall be deemed to have given consent,  
2 subject to the Motorist Implied Consent Law, to a chemical test of the  
3 person's urine for the purpose of determining the presence of [*cannabis,*  
4 *psilocybin, a controlled substance or an inhalant*] **an intoxicant other than**  
5 **intoxicating liquor** in the person's body if the person is arrested for driving  
6 while under the influence of intoxicants in violation of ORS 813.010 or of a  
7 municipal ordinance and either:

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

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

14       “(3) A police officer may not request a urine test unless the officer is  
15 certified by the Department of Public Safety Standards and Training as  
16 having completed at least eight hours of training in recognition of drug im-  
17 paired driving and the officer has a reasonable suspicion that the person  
18 arrested has been driving while under the influence of [*cannabis, psilocybin,*  
19 *a controlled substance, an inhalant or any combination of cannabis, psilocybin,*  
20 *a controlled substance, an inhalant and intoxicating liquor*] **an intoxicant**  
21 **other than intoxicating liquor or a combination of intoxicants.**

22       “(4) A person asked to give a urine sample shall be given privacy and  
23 may not be observed by a police officer when producing the sample.

24       “(5)(a) At the trial of any civil or criminal action, suit or proceeding  
25 arising out of the acts committed by a person driving a motor vehicle while  
26 under the influence of intoxicants, a valid chemical analysis of a person's  
27 urine is admissible as evidence and may be used with other evidence, if any,  
28 to determine whether the person was driving while under the influence of  
29 intoxicants.

30       “(b) A chemical analysis of a person's urine is valid if analysis is per-

1 formed in an accredited or licensed toxicology laboratory.

2 **“SECTION 13.** ORS 813.215 is amended to read:

3 “813.215. (1) A defendant is eligible for diversion if the defendant meets  
4 all of the following conditions:

5 “(a) On the date the defendant filed the petition for a driving while under  
6 the influence of intoxicants diversion agreement, the defendant had no  
7 charge, other than the charge for the present offense, pending for:

8 “(A) An offense of driving while under the influence of intoxicants in vi-  
9 olation of:

10 “(i) ORS 813.010; or

11 “(ii) The statutory counterpart to ORS 813.010 in another jurisdiction;

12 “(B) A driving under the influence of intoxicants offense in another ju-  
13 risdiction that involved the impaired driving of a vehicle due to the use of  
14 [*intoxicating liquor, cannabis, psilocybin, a controlled substance, an inhalant*  
15 *or any combination thereof*] **an intoxicant or a combination of**  
16 **intoxicants;** or

17 “(C) A driving offense in another jurisdiction that involved operating a  
18 vehicle while having a blood alcohol content above that jurisdiction’s per-  
19 missible blood alcohol content.

20 “(b) The defendant has not been convicted of an offense described in  
21 paragraph (a) of this subsection within the period beginning 15 years before  
22 the date of the commission of the present offense and ending on the date the  
23 defendant filed the petition for a driving while under the influence of  
24 intoxicants diversion agreement.

25 “(c) The defendant has not been convicted of a felony offense described  
26 in ORS 813.010 (5)(a).

27 “(d) The defendant was not participating in a driving while under the  
28 influence of intoxicants diversion program or in any similar alcohol or drug  
29 rehabilitation program in this state or in another jurisdiction on the date  
30 the defendant filed the petition for a driving while under the influence of

1 intoxicants diversion agreement. [*A defendant is not ineligible for diversion*  
2 *under this paragraph by reason of participation in a diversion program or any*  
3 *similar alcohol or drug rehabilitation program as a result of the charge for the*  
4 *present offense or a charge for violation of ORS 471.430.*]

5 “(e) The defendant did not participate in a diversion or rehabilitation  
6 program described in paragraph (d) of this subsection within the period be-  
7 ginning 15 years before the date of the commission of the present offense and  
8 ending on the date the defendant filed the petition for a driving while under  
9 the influence of intoxicants diversion agreement. [*A defendant is not ineli-*  
10 *gible for diversion under this paragraph by reason of participation in a di-*  
11 *version program or rehabilitation program described in paragraph (d) of this*  
12 *subsection as a result of the charge for the present offense or a charge for vi-*  
13 *olation of ORS 471.430.*]

14 “(f) The defendant had no charge of an offense of aggravated vehicular  
15 homicide or of murder, manslaughter, criminally negligent homicide or as-  
16 sult that resulted from the operation of a motor vehicle pending in this  
17 state or in another jurisdiction on the date the defendant filed the petition  
18 for a driving while under the influence of intoxicants diversion agreement.

19 “(g) The defendant has not been convicted of an offense described in  
20 paragraph (f) of this subsection within the period beginning 15 years before  
21 the date of the commission of the present offense and ending on the date the  
22 defendant filed the petition for a driving while under the influence of  
23 intoxicants diversion agreement.

24 “(h) The defendant did not hold commercial driving privileges on the date  
25 of the commission of the offense.

26 “(i) The defendant was not operating a commercial motor vehicle at the  
27 time of the offense.

28 “(j) The present driving while under the influence of intoxicants offense  
29 did not involve an accident resulting in:

30 “(A) Death of any person; or



1 “(B) Physical injury as defined in ORS 161.015 to any person other than  
2 the defendant.

3 “(2) For the purposes of subsection (1)(a) of this section, a conviction for  
4 a driving offense in another jurisdiction based solely on a person under 21  
5 years of age having a blood alcohol content that is lower than the permis-  
6 sible blood alcohol content in that jurisdiction for a person 21 years of age  
7 or older does not constitute a prior conviction.

8 “(3) **Notwithstanding subsection (1)(d) or (e) of this section, a de-**  
9 **fendant is eligible for diversion if the defendant participated in a di-**  
10 **version program or any similar alcohol or drug rehabilitation program:**

11 “(a) **As a result of the charge for the present offense or a charge**  
12 **for violation of ORS 471.430.**

13 “(b) **As a ward, youth or adjudicated youth, as those terms are de-**  
14 **defined in ORS 419A.004, pursuant to an order of the juvenile court under**  
15 **ORS chapter 419B or 419C, or referral of the juvenile department under**  
16 **ORS chapter 419C, and such order or referral was made when the de-**  
17 **fendant was under 18 years of age.**

18 “(c) **As the parent or guardian of a ward, youth or adjudicated**  
19 **youth, as those terms are defined in ORS 419A.004, pursuant to an**  
20 **order of the juvenile court under ORS chapter 419B or 419C.**

21 “[3] (4) A defendant is eligible for a second or subsequent diversion if  
22 the defendant meets all of the conditions of subsection (1) of this section and  
23 the defendant has not been convicted of any other criminal offense involving  
24 a motor vehicle within the period beginning 15 years before the date of the  
25 commission of the present offense and ending on the date the defendant filed  
26 the petition for the second or subsequent driving while under the influence  
27 of intoxicants diversion agreement.

28 “**SECTION 14.** ORS 813.300 is amended to read:

29 “813.300. (1) At the trial of any civil or criminal action, suit or proceeding  
30 arising out of the acts committed by a person driving a motor vehicle while

1 under the influence of intoxicants, if the amount of alcohol in the person's  
2 blood at the time alleged is less than 0.08 percent by weight of alcohol as  
3 shown by chemical analysis of the person's breath or blood, it is indirect  
4 evidence that may be used with other evidence, if any, to determine whether  
5 or not the person was then under the influence of intoxicants.

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

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

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

15 “(5) ORS 813.010 [(1)(d)] (1)(c) may not be construed to limit the  
16 admissibility of any evidence of the amount of alcohol in a person's blood  
17 as shown by chemical analysis of the person's breath or blood, in any civil  
18 or criminal action, suit or proceeding arising out of the acts committed by  
19 the person driving a vehicle while under the influence of intoxicants.

20 **“SECTION 15.** ORS 813.430 is amended to read:

21 “813.430. This section establishes circumstances under which ORS 813.420  
22 requires an increase in the time for suspension of driving privileges and  
23 under which ORS 813.520 requires an increase in the time before the De-  
24 partment of Transportation may issue a hardship permit. A person is subject  
25 to an increase in suspension time under this section if any of the following  
26 apply:

27 “(1) The person is presently participating in a driving while under the  
28 influence of intoxicants diversion program in this state or in any similar  
29 alcohol or drug rehabilitation program in this or another jurisdiction.

30 “(2) Within the five years preceding the date of arrest any of the follow-

1 ing occurred:

2 “(a) A suspension of the person’s driving privileges under ORS 813.410 or  
3 482.540 (1981 Replacement Part) became effective.

4 “(b) The person was convicted of:

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

6 “(i) ORS 813.010;

7 “(ii) The statutory counterpart to ORS 813.010 in another jurisdiction; or

8 “(iii) A municipal ordinance in this state or another jurisdiction;

9 “(B) A driving under the influence of intoxicants offense in another ju-  
10 risdiction that involved the impaired driving of a vehicle due to the use of  
11 [*intoxicating liquor, cannabis, psilocybin, a controlled substance, an inhalant*  
12 *or any combination thereof*] **an intoxicant or a combination of**  
13 **intoxicants;** or

14 “(C) A driving offense in another jurisdiction that involved operating a  
15 vehicle while having a blood alcohol content above that jurisdiction’s per-  
16 missible blood alcohol content.

17 “(c) The person commenced participating in a driving while under the  
18 influence of intoxicants diversion program in this state or in any similar  
19 alcohol or drug rehabilitation program in this or another jurisdiction.

20 “(3) For the purposes of subsection (2)(b) of this section, a conviction for  
21 a driving offense in another jurisdiction based solely on a person under 21  
22 years of age having a blood alcohol content that is lower than the permis-  
23 sible blood alcohol content in that jurisdiction for a person 21 years of age  
24 or older does not constitute a prior conviction.

25 **“SECTION 16.** ORS 821.250 is amended to read:

26 “821.250. (1) A person commits the offense of permitting dangerous oper-  
27 ation of a snowmobile or an all-terrain vehicle if the person is the owner or  
28 other person having charge or control of a snowmobile or an all-terrain ve-  
29 hicle and the person knowingly authorizes or permits any person to operate  
30 the vehicle across a highway who is:

1       “(a) Incapable by reason of age, physical or mental disability; or  
2       “(b) Under the influence of [*intoxicating liquor, cannabis, psilocybin, con-*  
3 *trolled substances or inhalants*] **an intoxicant.**

4       “(2) In addition to other penalties provided by this section, operators or  
5 owners may be liable as provided under ORS 821.310.

6       “(3) The offense described in this section, permitting dangerous operation  
7 of a snowmobile or an all-terrain vehicle, is a Class A traffic violation.

8       “**SECTION 17.** ORS 146.113 is amended to read:

9       “146.113. (1) A medical examiner or district attorney may, in any death  
10 requiring investigation, order samples of blood or urine taken for laboratory  
11 analysis.

12       “(2) When a death requiring an investigation as a result of a motor ve-  
13 hicle accident occurs within five hours after the accident and the deceased  
14 is over 13 years of age, a blood sample shall be taken and forwarded to an  
15 approved laboratory for analysis. Such blood or urine samples shall be ana-  
16 lyzed for the presence and quantity of ethyl alcohol, and if considered nec-  
17 essary by the Chief Medical Examiner, the presence of [*cannabis or controlled*  
18 *substances*] **any other intoxicants, as defined in section 2 of this 2023**  
19 **Act.**

20       “(3) Laboratory reports of the analysis shall be made a part of the Chief  
21 Medical Examiner’s and district medical examiner’s files.

22       “**SECTION 18.** ORS 137.129 is amended to read:

23       “137.129. The length of a community service sentence shall be within  
24 these limits:

25       “(1) For a violation, not more than 48 hours.

26       “(2) For a misdemeanor other than driving under the influence of  
27 intoxicants in violation of ORS 813.010, not more than 160 hours.

28       “(3)(a) For a felony committed prior to November 1, 1993, not more than  
29 500 hours.

30       “(b) For a felony committed on or after November 1, 1993, as provided in

1 the rules of the Oregon Criminal Justice Commission.

2 “(4) **Except as provided in subsection (5) of this section**, for a vio-  
3 lation of driving **while** under the influence of intoxicants under ORS 813.010  
4 **committed while operating a vehicle, other than a bicycle as defined**  
5 **in ORS 801.150**, not less than 80 hours or more than 250 hours.

6 “(5) **For a violation of driving while under the influence of**  
7 **intoxicants under ORS 813.010 committed while riding a bicycle, as**  
8 **defined in ORS 801.150, 48 hours.**

9 “**SECTION 19.** ORS 813.020 is amended to read:

10 “813.020. When a person is convicted of driving while under the influence  
11 of intoxicants in violation of ORS 813.010, a court shall comply with the  
12 following in addition to any fine or other penalty imposed upon the person  
13 under ORS 813.010:

14 “(1) The court shall require the person to:

15 “(a) Pay to the court the fee described under ORS 813.030 in addition to  
16 any fine imposed under ORS 813.010;

17 “(b) Complete a screening interview and a treatment program as provided  
18 in ORS 813.021; and

19 “(c) Submit to booking, if the person has not already been booked.

20 “(2) The court must impose and not suspend execution of a sentence re-  
21 quiring the person either to serve at least 48 hours’ imprisonment, which  
22 shall be served consecutively unless justice requires otherwise, or to perform  
23 community service for times specified by the court under ORS 137.129. For  
24 purposes of this subsection:

25 “(a) A court may provide for the imprisonment to be served in jail, mini-  
26 mum security facilities or inpatient rehabilitation or treatment centers.

27 “(b) Whenever the judge provides for the mandatory imprisonment to be  
28 served other than consecutively, the judgment must specifically so provide  
29 and the judge must state the reasons in writing.

30 “(3) In a county that has a victim impact program a court may require

1 the [person] **defendant** to attend a victim impact treatment session. **The**  
2 **court may not require a defendant to attend a victim impact treat-**  
3 **ment session if the defendant committed the current offense while**  
4 **riding a bicycle that is not an electric assisted bicycle.** If the court re-  
5 quires attendance under this section, the court may require the defendant to  
6 pay a reasonable fee to the victim impact program to offset the cost of the  
7 defendant's participation. The fee shall be established for each county by the  
8 victim impact panel coordinator and steering committee of that county and  
9 shall be not less than \$5 or more than \$50.

10 **SECTION 20.** ORS 813.235 is amended to read:

11 "813.235. In a county that has a victim impact program a court may re-  
12 quire as a condition of a driving while under the influence of intoxicants  
13 diversion agreement that the defendant attend a victim impact treatment  
14 session. **The court may not require a defendant to attend a victim im-**  
15 **impact treatment session if the defendant committed the current offense**  
16 **while riding a bicycle that is not an electric assisted bicycle.** If the  
17 court requires attendance under this section, the court may require the de-  
18 fendant, as part of the diversion agreement, to pay a reasonable fee to the  
19 victim impact program to offset the cost of the defendant's participation. The  
20 fee shall be established for each county by the victim impact panel coordi-  
21 nator and steering committee of that county and shall be not less than \$5  
22 or more than \$50.

23 **SECTION 21.** ORS 813.400 is amended to read:

24 "813.400. (1) Except as provided in [subsection (2)] **subsections (2) and**  
25 **(3)** of this section, upon receipt of a record of conviction for misdemeanor  
26 driving while under the influence of intoxicants, the Department of Trans-  
27 portation shall suspend the driving privileges of the person convicted. The  
28 suspension shall be for a period described under Schedule II of ORS 809.428,  
29 except the department shall not reinstate any driving privileges to the person  
30 until the person complies with future responsibility filings. A person is en-

1 titled to administrative review under ORS 809.440 of a suspension imposed  
2 under this subsection.

3 “(2) A person convicted of felony driving while under the influence of  
4 intoxicants, or a person convicted of misdemeanor driving while under the  
5 influence of intoxicants for a third or subsequent time, is subject to revoca-  
6 tion of driving privileges as provided in ORS 809.235.

7 “(3) **The provisions of this section do not apply to convictions of**  
8 **driving while under the influence of intoxicants if the offense was**  
9 **committed while the person was riding a bicycle.**

10 “(4) **For the purposes of this section, ‘bicycle’ does not include an**  
11 **electric assisted bicycle.**

12 “**SECTION 22.** ORS 813.602 is amended to read:

13 “813.602. (1) Subject to [*subsection (2)*] **subsections (2) and (6)** of this  
14 section, when a person is convicted of driving while under the influence of  
15 intoxicants in violation of ORS 813.010 or of a municipal ordinance, the De-  
16 partment of Transportation, in addition to any other requirement, shall re-  
17 quire that the person have installed and be using an approved ignition  
18 interlock device in any vehicle operated by the person:

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

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

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

27 “(2) When a person is convicted of a crime or multiple crimes as described  
28 in this subsection, the department, in addition to any other requirement,  
29 shall require that the person have installed and be using an approved ig-  
30 nition interlock device in any vehicle operated by the person for five years

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

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

8 “(A) Any degree of murder.

9 “(B) Manslaughter in the first or second degree.

10 “(C) Criminally negligent homicide.

11 “(D) Assault in the first degree.

12 “(b) Aggravated vehicular homicide.

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

17 “(3)(a) Except as provided in paragraph (c) of this subsection, as a con-  
18 dition of a driving while under the influence of intoxicants diversion agree-  
19 ment:

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

23 “(i) A chemical test of the person’s breath or blood disclosed a blood al-  
24 cohoh content of 0.08 percent or more by weight of alcohol in the blood of  
25 the person as shown by chemical analysis of the breath or blood;

26 “(ii) The person refused to submit to a chemical test of the person’s  
27 breath or blood; or

28 “(iii) A chemical test of the person’s breath, blood or urine disclosed a  
29 blood alcohol content of more than 0.00 but less than 0.08 percent by weight  
30 of alcohol in the blood of the person as shown by chemical analysis of the



1 breath or blood and disclosed the presence of [*cannabis, psilocybin, a con-*  
2 *trolled substance or an inhalant*] **an intoxicant other than intoxicating**  
3 **liquor.**

4 “(B) The court may require that an approved ignition interlock device be  
5 installed and used in any vehicle operated by the person during the period  
6 of the agreement when the person has driving privileges if the person sub-  
7 mitted to a chemical test of the person’s breath, blood or urine and the test  
8 disclosed a blood alcohol content below 0.08 percent by weight of alcohol in  
9 the blood of the person as shown by chemical analysis of the breath or blood.

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

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

18 “(4) The department shall adopt rules permitting medical exemptions from  
19 the requirements of installation and use of an ignition interlock device under  
20 this section.

21 “(5) When a person is required to install an ignition interlock device  
22 under subsection (2) of this section, the manufacturer’s representative pro-  
23 viding the device shall provide notice of any installation or removal of the  
24 device or any tampering with the device to:

25 “(a) The supervising court or to the court’s designee, including but not  
26 limited to an agency or organization certified by the Oregon Health Au-  
27 thority under ORS 813.025;

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

29 “(c) The Oregon State Police.

30 “(6) **The provisions of this section do not apply to convictions of**

1 **driving while under the influence of intoxicants if the offense was**  
2 **committed while the person was riding a bicycle.**

3 **“(7) As used in this section, ‘bicycle’ does not include electric as-**  
4 **sisted bicycles.**

5 **“SECTION 23.** ORS 163.118 is amended to read:

6 “163.118. (1) Criminal homicide constitutes manslaughter in the first de-  
7 gree when:

8 “(a) It is committed recklessly under circumstances manifesting extreme  
9 indifference to the value of human life;

10 “(b) It is committed intentionally by a defendant under the influence of  
11 extreme emotional disturbance as provided in ORS 163.135, which constitutes  
12 a mitigating circumstance reducing the homicide that would otherwise be  
13 murder to manslaughter in the first degree and need not be proved in any  
14 prosecution;

15 “(c) A person recklessly causes the death of a child under 14 years of age  
16 or a dependent person, as defined in ORS 163.205, and:

17 “(A) The person has previously engaged in a pattern or practice of assault  
18 or torture of the victim or another child under 14 years of age or a dependent  
19 person; or

20 “(B) The person causes the death by neglect or maltreatment, as defined  
21 in ORS 163.115; or

22 “(d) It is committed recklessly or with criminal negligence by a person  
23 operating a motor vehicle while under the influence of intoxicants in vio-  
24 lation of ORS 813.010 and:

25 “(A) In the 10 years prior to the date of the current offense the person  
26 has been convicted of at least three of any of the following offenses in any  
27 combination:

28 “(i) Driving under the influence of intoxicants in violation of ORS  
29 813.010, or its statutory counterpart in another jurisdiction;

30 “(ii) A driving under the influence of intoxicants offense in another ju-

1 jurisdiction that involved the impaired driving or operation of a vehicle, an  
2 aircraft or a boat due to the use of [*intoxicating liquor, cannabis, a controlled*  
3 *substance, an inhalant*] **intoxicants** or any combination thereof; or

4 “(iii) An offense in another jurisdiction that involved driving or operating  
5 a vehicle, an aircraft or a boat while having a blood alcohol content above  
6 that jurisdiction’s permissible blood alcohol content; or

7 “(B)(i) The person has a previous conviction for any of the crimes de-  
8 scribed in subsection (2) of this section, or their statutory counterparts in  
9 any jurisdiction; and

10 “(ii) The victim’s serious physical injury in the previous conviction was  
11 caused by the person driving a motor vehicle.

12 “(2) The previous convictions to which subsection (1)(d)(B) of this section  
13 applies are:

14 “(a) Assault in the first degree under ORS 163.185;

15 “(b) Assault in the second degree under ORS 163.175; or

16 “(c) Assault in the third degree under ORS 163.165.

17 “(3) Manslaughter in the first degree is a Class A felony.

18 “(4) It is an affirmative defense to a charge of violating:

19 “(a) Subsection (1)(c)(B) of this section that the victim was a dependent  
20 person who was at least 18 years of age and was under care or treatment  
21 solely by spiritual means pursuant to the religious beliefs or practices of the  
22 dependent person or the guardian of the dependent person.

23 “(b) Subsection (1)(d)(B) of this section that the defendant was not under  
24 the influence of intoxicants at the time of the conduct that resulted in the  
25 previous conviction.

26 “(5) **As used in this section, ‘intoxicant’ has the meaning given that**  
27 **term in section 2 of this 2023 Act.**

28 “**SECTION 24.** ORS 163.185 is amended to read:

29 “163.185. (1) A person commits the crime of assault in the first degree if  
30 the person:

1 “(a) Intentionally causes serious physical injury to another by means of  
2 a deadly or dangerous weapon;

3 “(b) Intentionally or knowingly causes serious physical injury to a child  
4 under six years of age;

5 “(c) Violates ORS 163.175 knowing that the victim is pregnant; or

6 “(d) Intentionally, knowingly or recklessly causes serious physical injury  
7 to another while operating a motor vehicle under the influence of intoxicants  
8 in violation of ORS 813.010 and:

9 “(A) In the 10 years prior to the date of the current offense the person  
10 has been convicted of at least three of any of the following offenses in any  
11 combination:

12 “(i) Driving under the influence of intoxicants in violation of ORS  
13 813.010, or its statutory counterpart in another jurisdiction;

14 “(ii) A driving under the influence of intoxicants offense in another ju-  
15 risdiction that involved the impaired driving or operation of a vehicle, an  
16 aircraft or a boat due to the use of [*intoxicating liquor, cannabis, a controlled*  
17 *substance, an inhalant*] **intoxicants** or any combination thereof; or

18 “(iii) An offense in another jurisdiction that involved driving or operating  
19 a vehicle, an aircraft or a boat while having a blood alcohol content above  
20 that jurisdiction’s permissible blood alcohol content; or

21 “(B)(i) The person has a previous conviction for any of the crimes de-  
22 scribed in subsection (2) of this section, or their statutory counterparts in  
23 any jurisdiction; and

24 “(ii) The victim’s death or serious physical injury in the previous con-  
25 viction was caused by the person driving a motor vehicle.

26 “(2) The previous convictions to which subsection (1)(d)(B) of this section  
27 apply are:

28 “(a) Manslaughter in the first degree under ORS 163.118;

29 “(b) Manslaughter in the second degree under ORS 163.125;

30 “(c) Criminally negligent homicide under ORS 163.145;

1 “(d) Assault in the first degree under this section;  
2 “(e) Assault in the second degree under ORS 163.175; or  
3 “(f) Assault in the third degree under ORS 163.165.

4 “(3) Assault in the first degree is a Class A felony.

5 “(4) It is an affirmative defense to a prosecution under subsection (1)(d)(B)  
6 of this section that the defendant was not under the influence of intoxicants  
7 at the time of the conduct that resulted in the previous conviction.

8 “(5) **As used in this section, ‘intoxicant’ has the meaning given that**  
9 **term in section 2 of this 2023 Act.**

10 **“SECTION 25. Sections 2 and 5 of this 2023 Act and the amendments**  
11 **to ORS 137.129, 146.113, 163.118, 163.185, 801.272, 807.060, 809.235, 809.730,**  
12 **813.010, 813.011, 813.020, 813.040, 813.131, 813.215, 813.235, 813.300, 813.400,**  
13 **813.430, 813.602 and 821.250 by sections 3 and 6 to 24 of this 2023 Act**  
14 **apply to conduct occurring on or after the effective date of this 2023**  
15 **Act.”.**

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