

House Bill 3513

Sponsored by Representative FREEMAN

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**.

Creates Ignition Interlock Device Program Fund and continuously appropriates moneys in fund to Department of Transportation to pay for installation and maintenance of ignition interlock devices for use by persons who are indigent.

Imposes fees on persons convicted of driving while under influence of intoxicants for deposit in Ignition Interlock Device Program Fund.

Provides that costs of administration and evaluation of ignition interlock program be paid from Ignition Interlock Device Program Fund rather than Intoxicated Driver Program Fund.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS
3 471.432, 813.020, 813.030, 813.270 and 813.602; repealing ORS 813.616; and appropriating money.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of the Oregon Vehicle**
6 **Code.**

7 **SECTION 2. The Ignition Interlock Device Program Fund is established in the State**
8 **Treasury, separate and distinct from the General Fund, and shall consist of moneys depos-**
9 **ited into the Ignition Interlock Device Program Fund under ORS 813.030 (2). Interest earned**
10 **by the Ignition Interlock Device Program Fund shall be credited to the fund. Moneys in the**
11 **Ignition Interlock Device Program Fund are continuously appropriated to the Department**
12 **of Transportation for the following purposes:**

13 (1) **To pay for the costs of participation in the ignition interlock program, established by**
14 **ORS 813.600, by persons who are found by the department to be indigent.**

15 (2) **To pay the cost of administration of the fund by the department.**

16 (3) **To pay for the administration and evaluation of the ignition interlock program by the**
17 **department.**

18 **SECTION 3. ORS 813.030 is amended to read:**

19 813.030. (1) The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$130,
20 except that the court may waive all or part of the fee in cases involving indigent defendants. The
21 court may make provision for payment of the fee **under this subsection** on an installment basis.
22 The fee shall be ordered paid as follows:

23 *[(1)]* (a) \$105 to be credited and distributed under ORS 137.295 as an obligation payable to the
24 state; and

25 *[(2)]* (b) \$25 to be paid to the Director of the Oregon Health Authority for deposit in the
26 Intoxicated Driver Program Fund created by ORS 813.270.

27 (2) **In addition to the fees described in subsection (1) of this section, the court shall im-**
28 **pose a fee as described in this subsection, except that the court may waive all or part 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 **fee in cases involving indigent defendants. The court may make provision for payment of the**
 2 **fee on an installment basis. The fee shall be ordered paid as follows:**

3 **(a) \$120 to be paid to the Department of Transportation for deposit in the Ignition**
 4 **Interlock Device Program Fund for a first conviction.**

5 **(b) \$240 to be paid to the Department of Transportation for deposit in the Ignition**
 6 **Interlock Device Program Fund for a second or subsequent conviction.**

7 **SECTION 4.** ORS 813.270 is amended to read:

8 813.270. The Intoxicated Driver Program Fund is created to consist of moneys placed in the fund
 9 under ORS 813.030 (1) and 813.240 or as otherwise provided by law and of gifts and grants made to
 10 the fund for carrying out the purposes of the fund. The moneys in the fund may be used only for the
 11 following purposes:

12 (1) To pay for providing treatment for individuals who enter diversion agreements under ORS
 13 813.200 and who are found to be indigent. Payment for treatment under this subsection may include
 14 treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided
 15 by the Director of the Oregon Health Authority by rule to agencies or organizations providing
 16 treatment.

17 (2) To pay for evaluation as provided by law of programs used for diversion agreements.

18 (3) To pay the cost of administration of the fund by the Oregon Health Authority.

19 (4) To pay for materials, resources and training supplied by the authority to those persons, or-
 20 ganizations or agencies performing the diagnostic assessments or providing education or treatment
 21 to persons under diversion agreements.

22 (5) To pay for providing treatment programs required under ORS 813.020 and treatment or in-
 23 formation programs required under ORS 471.432 for individuals who are found to be indigent.

24 (6) To pay for special services required to enable a person with a disability, or a person whose
 25 proficiency in the use of English is limited because of the person's national origin, to participate in
 26 treatment programs that are used for diversion agreements under ORS 813.200 or are required under
 27 ORS 813.020. This subsection applies:

28 (a) Whether or not the person is indigent; and

29 (b) Only to special services required solely because of the person's disability or limited profi-
 30 ciency in the use of English.

31 **SECTION 5.** ORS 813.602 is amended to read:

32 813.602. (1) When a person is convicted of driving while under the influence of intoxicants in
 33 violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation, in addition
 34 to any other requirement, shall require that an approved ignition interlock device be installed and
 35 used in any vehicle operated by the person:

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

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

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

44 (2) If the court determines that approved ignition interlock devices are reasonably available, the
 45 court may require as a condition of a driving while under the influence of intoxicants diversion

1 agreement that an approved ignition interlock device be installed in any vehicle operated by the
 2 person. Courts may not exercise authority under this subsection during any period the courts have
 3 notice from the Office of Economic Analysis of the Oregon Department of Administrative Services
 4 that there are not sufficient moneys in the *[Intoxicated Driver Program Fund]* **Ignition Interlock**
 5 **Device Program Fund** to pay the costs under subsection (4) of this section. The Office of Economic
 6 Analysis of the Oregon Department of Administrative Services may not issue any notice under this
 7 subsection if federal funds are available to pay the cost of the interlock devices for indigents and
 8 costs of analysis of the use of interlock devices.

9 (3) Except as provided in subsection (4) of this section, if an ignition interlock system is ordered
 10 or required under subsection (1) or (2) of this section, the person so ordered or required shall pay
 11 to the provider the reasonable costs of leasing, installing and maintaining the device. A payment
 12 schedule may be established for the person by the department.

13 (4) The department may waive, in whole or in part, or defer the defendant's responsibility to pay
 14 all or part of the costs under subsection (3) of this section if the defendant meets the criteria for
 15 indigence established for waiving or deferring such costs under subsection (5) of this section. If the
 16 defendant's responsibility for costs is waived, then *[notwithstanding ORS 813.270,]* the costs de-
 17 scribed in subsection (3) of this section must be paid from the *[Intoxicated Driver Program Fund]*
 18 **Ignition Interlock Device Program Fund**.

19 (5) The department, by rule, shall establish criteria and procedures it will use for qualification
 20 to waive or defer costs described under subsection (3) of this section for indigence. The criteria must
 21 be consistent with the standards for indigence adopted by the federal government for purposes of
 22 the Supplemental Nutrition Assistance Program.

23 (6) At the end of the suspension or revocation resulting from the conviction, the department
 24 shall suspend the driving privileges or right to apply for driving privileges of a person who has not
 25 submitted proof to the department that an ignition interlock device has been installed or who
 26 tampers with an ignition interlock device after it has been installed. If the suspension is for failing
 27 to submit proof of installation, the suspension continues until the department receives proof that the
 28 ignition interlock device has been installed or until one year after the ending date of the suspension
 29 resulting from the first conviction or two years after the ending date of the suspension resulting
 30 from a second or subsequent conviction, whichever comes first. If the suspension is for tampering
 31 with an ignition interlock device, the suspension continues until one year after the ending date of
 32 the suspension resulting from the first conviction or two years after the ending date of the suspen-
 33 sion resulting from a second or subsequent conviction. A person whose driving privileges or right
 34 to apply for privileges is suspended under this subsection is entitled to administrative review, as
 35 described in ORS 809.440, of the action.

36 (7) The department shall adopt rules permitting medical exemptions from the requirements of
 37 installation and use of an ignition interlock device under subsection (1) of this section.

38 **SECTION 6.** ORS 471.432 is amended to read:

39 471.432. When a person is ordered to undergo assessment and treatment as provided in ORS
 40 471.430, the court shall require the person to do all of the following:

41 (1) Pay to the court the fee described under ORS 813.030 (1) in addition to any fine imposed
 42 under ORS 471.430.

43 (2) Complete an examination by an agency or organization designated by the court to determine
 44 whether the person has a problem condition involving alcohol as described in ORS 813.040. The
 45 designated agencies or organizations must meet the standards set by the Director of the Oregon

1 Health Authority to perform the diagnostic assessment and treatment of problem drinking and
2 alcoholism and must be certified by the director.

3 (3) Complete a treatment program, paid at the expense of the person convicted, as follows:

4 (a) If the examination required under this section shows that the person has a problem condition
5 involving alcohol, a program for rehabilitation for alcoholism approved by the director.

6 (b) If the examination required by this section shows that the person does not have a problem
7 condition involving alcohol, an alcohol information program approved by the director.

8 **SECTION 7.** ORS 813.020 is amended to read:

9 813.020. When a person is convicted of driving while under the influence of intoxicants in vio-
10 lation of ORS 813.010, a court shall comply with the following in addition to any fine or other pen-
11 alty imposed upon the person under ORS 813.010:

12 (1) The court shall require the person to:

13 (a) Pay to the court the [fee] fees described under ORS 813.030 in addition to any fine imposed
14 under ORS 813.010; and

15 (b) Complete a screening interview and a treatment program as provided in ORS 813.021.

16 (2) The court must impose and not suspend execution of a sentence requiring the person either
17 to serve at least 48 hours' imprisonment, which shall be served consecutively unless justice requires
18 otherwise, or to perform community service for times specified by the court under ORS 137.129. For
19 purposes of this subsection:

20 (a) A court may provide for the imprisonment to be served in jail, minimum security facilities
21 or inpatient rehabilitation or treatment centers.

22 (b) Whenever the judge provides for the mandatory imprisonment to be served other than con-
23 secutively, the judgment must specifically so provide and the judge must state the reasons in writ-
24 ing.

25 (3) In a county that has a victim impact program a court may require the person to attend a
26 victim impact treatment session. If the court requires attendance under this section, the court may
27 require the defendant to pay a reasonable fee to the victim impact program to offset the cost of the
28 defendant's participation. The fee shall be established for each county by the victim impact panel
29 coordinator and steering committee of that county and shall be not less than \$5 or more than \$50.

30 **SECTION 8.** ORS 813.616 is repealed.

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