

Senate Bill 394

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

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**.

Eliminates requirement to have ignition interlock device installed for persons in driving while under influence diversion program.

A BILL FOR AN ACT

1
2 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.600, 813.602
3 and 813.606.

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

5 **SECTION 1.** ORS 813.602 is amended to read:

6 813.602. (1) [*Except as provided in*] **Subject to** subsection (2) of this section, when a person is
7 convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or of a
8 municipal ordinance, the Department of Transportation, in addition to any other requirement, shall
9 require that the person [*install*] **have installed** and use an approved ignition interlock device in any
10 vehicle operated by the person:

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

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

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

19 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the
20 department, in addition to any other requirement, shall require that the person [*install*] **have in-**
21 **stalled** and use an approved ignition interlock device in any vehicle operated by the person for five
22 years after the ending date of the longest running suspension or revocation caused by any of the
23 convictions. Violation of the condition imposed under this subsection is a Class A traffic violation.

24 A person is subject to this subsection when the person is convicted of:

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

27 (A) Any degree of murder.

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

29 (C) Criminally negligent homicide.

30 (D) Assault in the first degree.

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 (b) Aggravated vehicular homicide.

2 (c) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal
3 ordinance and the person's driving privileges are revoked under ORS 809.235 (1)(b) and later ordered
4 restored under ORS 809.235 (4).

5 *[(3)(a) Except as provided in paragraph (b) of this subsection, the court shall require as a condition
6 of a driving while under the influence of intoxicants diversion agreement that an approved ignition
7 interlock device be installed and used in any vehicle operated by the person during the period of the
8 agreement when the person has driving privileges. In addition to any action taken under ORS 813.255,
9 violation of the condition imposed under this subsection is a Class A traffic violation.]*

10 *[(b) A court may exempt a person from the condition in a diversion agreement to install and use
11 an ignition interlock device if the court determines that the person meets the requirements for a medical
12 exemption in accordance with rules adopted by the department under this section. A person granted a
13 medical exemption under this paragraph shall carry proof of the medical exemption with the person
14 while operating any vehicle.]*

15 *[(4) Except as provided in subsection (5) of this section, if an ignition interlock system is ordered
16 or required under subsection (1), (2) or (3) of this section, the person so ordered or required shall pay
17 to the provider the reasonable costs of leasing, installing and maintaining the device. A payment
18 schedule may be established for the person by the department.]*

19 *[(5) The department may waive, in whole or in part, or defer the defendant's responsibility to pay
20 all or part of the costs under subsection (4) of this section if the defendant meets the criteria for
21 indigence established for waiving or deferring such costs under subsection (6) of this section. If the
22 defendant's responsibility for costs is waived, then notwithstanding ORS 813.270, the costs described
23 in subsection (4) of this section must be paid from the Intoxicated Driver Program Fund.]*

24 *[(6) The department, by rule, shall establish criteria and procedures it will use for qualification to
25 waive or defer costs described under subsection (4) of this section for indigence. The criteria must be
26 consistent with the standards for indigence adopted by the federal government for purposes of the
27 Supplemental Nutrition Assistance Program.]*

28 *[(7) At the end of the suspension or revocation resulting from the conviction, the department shall
29 suspend the driving privileges or right to apply for driving privileges of a person who has not sub-
30 mitted proof to the department that an ignition interlock device has been installed or who tampers with
31 an ignition interlock device after it has been installed.]*

32 *[(8) If the department imposes a suspension under subsection (7) of this section for failing to submit
33 proof of installation, the suspension continues until the department receives proof that the ignition
34 interlock device has been installed. If the department does not receive proof that the ignition interlock
35 device has been installed, the suspension shall continue for:]*

36 *[(a) One year after the ending date of the suspension resulting from the first conviction;]*

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

39 *[(c) Five years after the ending date of the longest running suspension or revocation resulting from
40 a conviction described in subsection (2) of this section.]*

41 *[(9) If the department imposes a suspension under subsection (7) of this section for tampering with
42 an ignition interlock device, the suspension continues until:]*

43 *[(a) One year after the ending date of the suspension resulting from the first conviction;]*

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

1 *[(c) Five years after the ending date of the longest running suspension or revocation resulting from*
 2 *a conviction described in subsection (2) of this section.]*

3 *[(10) A person whose driving privileges or right to apply for privileges is suspended under sub-*
 4 *section (7) of this section is entitled to administrative review, as described in ORS 809.440, of the*
 5 *action.]*

6 *[(11)] (3) The department shall adopt rules permitting medical exemptions from the requirements*
 7 *of installation and use of an ignition interlock device under [subsections (1), (2) and (3) of] this sec-*
 8 *tion.*

9 *[(12) When a person is required to install an ignition interlock device under subsection (2) or (3)*
 10 *of this section, the provider of the device shall provide notice of any installation or removal of the de-*
 11 *vice or any tampering with the device to the court that ordered installation of the device or to the*
 12 *court's designee, including but not limited to an agency or organization certified by the Oregon Health*
 13 *Authority under ORS 813.025.]*

14 **SECTION 2.** ORS 813.600 is amended to read:

15 813.600. (1) The Department of Transportation, in consultation with the Transportation Safety
 16 Committee, shall establish a program for the use of ignition interlock devices by persons convicted
 17 of driving while under the influence of intoxicants and granted hardship permits under ORS 807.240
 18 *[and by persons who have entered into a driving while under the influence of intoxicants diversion*
 19 *agreement].*

20 (2) The department shall adopt rules that specify requirements for ignition interlock devices that
 21 may be used and shall publish a list of devices that meet the requirements. The list may include
 22 devices that:

- 23 (a) Do not impede the safe operation of the vehicle;
- 24 (b) Have the fewest opportunities to be bypassed;
- 25 (c) Correlate well with established measures of alcohol impairment;
- 26 (d) Work accurately and reliably in an unsupervised environment;
- 27 (e) Require a deep lung breath sample or other accurate measure of blood alcohol content
- 28 equivalence;
- 29 (f) Resist tampering and give evidence if tampering is attempted;
- 30 (g) Are difficult to circumvent, and require premeditation to do so;
- 31 (h) Minimize inconvenience to a sober user;
- 32 (i) Operate reliably over the range of automobile environments or automobile manufacturing
- 33 standards;
- 34 (j) Are manufactured by a party who is adequately insured for product liability; and
- 35 (k) Have a label affixed in a prominent location warning that any person tampering with, cir-
- 36 cumventing or otherwise misusing the device is subject to civil penalty.

37 **SECTION 3.** ORS 813.606 is amended to read:

38 813.606. Notwithstanding ORS 813.604, if a person is required, in the course and scope of the
 39 person's employment, to operate a motor vehicle owned by the person's employer, the person may
 40 operate that vehicle without installation of an ignition interlock device if:

- 41 (1) The employer has been notified:
 - 42 (a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604;
 - 43 (b) That the employee is operating on a fully reinstated license within the first year following
 - 44 suspension or revocation for the employee's first conviction of driving while under the influence of
 - 45 intoxicants; **or**

1 (c) That the employee is operating on a fully reinstated license within the second year following
 2 suspension or revocation for the employee's second or subsequent conviction of driving while under
 3 the influence of intoxicants; *[or]* **and**

4 *[(d) That the employee has driving privileges and is otherwise required to install an ignition*
 5 *interlock device as a condition of a driving while under the influence of intoxicants diversion agree-*
 6 *ment; and]*

7 (2) The employee has proof of the notification and, if applicable, a fully reinstated license in the
 8 possession of the employee while operating the employer's vehicle in the course of employment.

9 **SECTION 4. Sections 5 and 6 of this 2015 Act are added to and made a part of ORS**
 10 **chapter 813.**

11 **SECTION 5. Cost waiver.** (1) Except as provided in subsection (2) of this section, if an
 12 ignition interlock device is required under ORS 813.602, the person required to have the de-
 13 vice installed shall pay to the provider the reasonable costs of leasing, installing and main-
 14 taining the device. A payment schedule may be established for the person by the Department
 15 of Transportation.

16 (2) The department may waive, in whole or in part, or defer the defendant's responsibility
 17 to pay all or part of the costs under subsection (1) of this section if the defendant meets the
 18 criteria for indigence established for waiving or deferring such costs under subsection (3) of
 19 this section. If the defendant's responsibility for costs is waived, then notwithstanding ORS
 20 813.270, the costs described in subsection (1) of this section must be paid from the
 21 Intoxicated Driver Program Fund.

22 (3) The department, by rule, shall establish criteria and procedures it will use for quali-
 23 fication to waive or defer costs described under subsection (1) of this section for indigence.
 24 The criteria must be consistent with the standards for indigence adopted by the federal
 25 government for purposes of the Supplemental Nutrition Assistance Program.

26 **SECTION 6. Suspension of driving privileges.** (1) At the end of the suspension or revo-
 27 cation resulting from a conviction for driving while under the influence of intoxicants in vi-
 28 olation of ORS 813.010 or of a municipal ordinance, the Department of Transportation shall
 29 suspend the driving privileges or right to apply for driving privileges of a person who has not
 30 submitted proof to the department that an ignition interlock device has been installed in any
 31 vehicle operated by the person or who tampers with an ignition interlock device after it has
 32 been installed.

33 (2) If the department imposes a suspension under subsection (1) of this section for failing
 34 to submit proof of installation, the suspension continues until the department receives proof
 35 that the ignition interlock device has been installed. If the department does not receive proof
 36 that the ignition interlock device has been installed, the suspension shall continue for:

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

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

40 (c) Five years after the ending date of the longest running suspension or revocation re-
 41 sulting from a conviction described in ORS 813.602 (2).

42 (3) If the department imposes a suspension under subsection (1) of this section for
 43 tampering with an ignition interlock device, the suspension continues until:

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

45 (b) Except as provided in paragraph (c) of this subsection, two years after the ending date

1 of the suspension resulting from a second or subsequent conviction; or

2 (c) Five years after the ending date of the longest running suspension or revocation re-
3 sulting from a conviction described in ORS 813.602 (2).

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

6 SECTION 7. Applicability. Sections 5 and 6 of this 2015 Act and the amendments to ORS
7 813.600, 813.602 and 813.606 by sections 1 to 3 of this 2015 Act apply to convictions of driving
8 while under the influence of intoxicants entered and to diversion agreements entered into
9 on or after the effective date of this 2015 Act.

10 SECTION 8. Captions. The section captions used in this 2015 Act are provided only for
11 the convenience of the reader and do not become part of the statutory law of this state or
12 express any legislative intent in the enactment of this 2015 Act.

13
