

# Senate Bill 127

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## 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**.

Increases penalty for offenses related to ignition interlock devices. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both. Further increases penalty if passenger in motor vehicle is under 18 years of age at time of offense. Punishes by maximum 364 days' imprisonment, \$6,250 fine, or both.

Clarifies time period before person may request that court vacate requirement to install and use ignition interlock device.

## A BILL FOR AN ACT

1  
2 Relating to ignition interlock devices; creating new provisions; and amending ORS 813.602, 813.608,  
3 813.610, 813.612, 813.614 and 813.645.

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) Subject to subsection (2) of this section, when a person is convicted of driving while  
7 under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the De-  
8 partment of Transportation, in addition to any other requirement, shall require that the person have  
9 installed and be using an approved ignition interlock device in any vehicle operated by the person:

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

12 (b) For a first conviction, for one year after the ending date of the suspension or revocation  
13 caused by the conviction. **Except as provided in paragraph (d) of this subsection**, violation of  
14 the condition imposed under this paragraph is a [*Class A traffic violation*] **Class C misdemeanor**.

15 (c) For a second or subsequent conviction, for two years after the ending date of the suspension  
16 or revocation caused by the conviction. **Except as provided in paragraph (d) of this subsection**,  
17 violation of the condition imposed under this paragraph is a [*Class A traffic violation*] **Class C**  
18 **misdemeanor**.

19 **(d) If a passenger under 18 years of age was in the motor vehicle at the time of the of-**  
20 **fense, violation of a condition imposed under paragraphs (b) or (c) of this subsection is a**  
21 **Class A misdemeanor.**

22 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the  
23 department, in addition to any other requirement, shall require that the person have installed and  
24 be using an approved ignition interlock device in any vehicle operated by the person for five years  
25 after the ending date of the longest running suspension or revocation caused by any of the con-  
26 victions. Violation of the condition imposed under this subsection is a [*Class A traffic violation*]  
27 **Class C misdemeanor. If a passenger under 18 years of age was in the motor vehicle at the**  
28 **time of the offense, the penalty is a Class A misdemeanor.** A person is subject to this subsection

**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 when the person is convicted of:

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

4 (A) Any degree of murder.

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

6 (C) Criminally negligent homicide.

7 (D) Assault in the first degree.

8 (b) Aggravated vehicular homicide.

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

12 (3)(a) Except as provided in paragraph (c) of this subsection, as a condition of a driving while  
13 under the influence of intoxicants diversion agreement:

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

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

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

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

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

30 (b) In addition to any action taken under ORS 813.255, violation of the condition imposed under  
31 this subsection is a [*Class A traffic violation*] **Class C misdemeanor. If a passenger under 18**  
32 **years of age was in the motor vehicle at the time of the offense, violation of a condition**  
33 **imposed under this subsection is a Class A misdemeanor.**

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

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

41 (5) When a person is required to install an ignition interlock device under subsection (2) of this  
42 section, the manufacturer's representative providing the device shall provide notice of any installa-  
43 tion or removal of the device or any tampering with the device to:

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

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

2 (c) The Oregon State Police.

3 **SECTION 2.** ORS 813.608 is amended to read:

4 813.608. (1) A person commits the offense of knowingly furnishing a motor vehicle without an  
5 ignition interlock device to someone who is not authorized to drive such a vehicle if the person  
6 rents, leases, lends or otherwise furnishes a motor vehicle to someone the person knows to have  
7 been ordered or required under ORS 813.602, to install an ignition interlock device, and the motor  
8 vehicle is not equipped with such a device that is in working order.

9 (2) The offense described in this section, knowingly furnishing a motor vehicle without an ig-  
10 nition interlock device to someone who is not authorized to drive such a vehicle, is:

11 (a) A [*Class A traffic violation*] **Class C misdemeanor.**

12 (b) **If a passenger under 18 years of age was in the motor vehicle at the time of the of-**  
13 **fense, a Class A misdemeanor.**

14 **SECTION 3.** ORS 813.610 is amended to read:

15 813.610. (1) A person commits the offense of unlawfully soliciting another to blow into an ig-  
16 nition interlock device or start a motor vehicle equipped with an ignition interlock device if the  
17 person has such a device as a result of an order or requirement under ORS 813.602 and the person  
18 requests or solicits another to blow into the device or start the motor vehicle so as to circumvent  
19 the device.

20 (2) The offense described in this section, unlawfully soliciting another to blow into an ignition  
21 interlock device or start a motor vehicle equipped with an ignition interlock device, is:

22 (a) A [*Class A traffic violation*] **Class C misdemeanor.**

23 (b) **If a passenger under 18 years of age was in the motor vehicle at the time of the of-**  
24 **fense, a Class A misdemeanor.**

25 **SECTION 4.** ORS 813.612 is amended to read:

26 813.612. (1) A person commits the offense of unlawfully blowing into an ignition interlock device  
27 or starting a motor vehicle equipped with an ignition interlock device if, for the purpose of providing  
28 an operable motor vehicle for someone required under ORS 813.602 to have such a device, the per-  
29 son blows into an ignition interlock device or starts an automobile equipped with the device.

30 (2) This section does not apply to a person who is required to have an ignition interlock device  
31 and who blows into or starts the person's own vehicle that is so equipped.

32 (3) The offense described in this section, unlawfully blowing into an ignition interlock device  
33 or starting a motor vehicle equipped with an ignition interlock device, is:

34 (a) A [*Class A traffic violation*] **Class C misdemeanor.**

35 (b) **If a passenger under 18 years of age was in the motor vehicle at the time of the of-**  
36 **fense, a Class A misdemeanor.**

37 **SECTION 5.** ORS 813.614 is amended to read:

38 813.614. (1) A person commits the offense of tampering with an ignition interlock device if the  
39 person does anything to a device that was ordered installed pursuant to ORS 813.602 that circum-  
40 vents the operation of the device.

41 (2) The offense described in this section, tampering with an ignition interlock device, is:

42 (a) A [*Class A traffic violation*] **Class C misdemeanor.**

43 (b) **If a passenger under 18 years of age was in the motor vehicle at the time of the of-**  
44 **fense, a Class A misdemeanor.**

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

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

4 (a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for  
 5 at least [*six consecutive months*] **180 consecutive days** and provides a certificate to the court from  
 6 the ignition interlock device manufacturer’s representative stating that the device has not recorded  
 7 a negative report; and

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

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

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

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

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

19 (c) Any other relevant factors.

20 (4) The court may vacate a defendant’s requirement to install and use an ignition interlock de-  
 21 vice under ORS 813.602 (3) if, after a hearing described in subsection (3) of this section, the court  
 22 finds by a preponderance of the evidence that the petitioner:

23 (a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for  
 24 at least [*six consecutive months*] **180 consecutive days** with no negative reports; and

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

27 (5) When a court vacates a defendant’s requirement to install and use an ignition interlock de-  
 28 vice under ORS 813.602 (3), the court shall notify the Department of Transportation.

29 **SECTION 7. (1) The amendments to ORS 813.602, 813.608, 813.610, 813.612 and 813.614 by**  
 30 **sections 1 to 5 of this 2021 Act apply to offenses committed on or after the effective date of**  
 31 **this 2021 Act.**

32 **(2) The amendments to ORS 813.645 by section 6 of this 2021 Act apply to diversion**  
 33 **agreements entered into on or after the effective date of this 2021 Act.**

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