

House Bill 2321

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Criminal Defense Lawyers Association)

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**.

Corrects references to Motorist Implied Consent Law.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; amending ORS 813.100 and 813.320.

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

4 **SECTION 1.** ORS 813.100 is amended to read:

5 813.100. (1) Any person who operates a motor vehicle upon premises open to the public or the
6 highways of this state shall be deemed to have given consent, subject to the [*implied consent law*]
7 **Motorist Implied Consent Law**, to a chemical test of the person's breath, or of the person's blood
8 if the person is receiving medical care in a health care facility immediately after a motor vehicle
9 accident, for the purpose of determining the alcoholic content of the person's blood if the person is
10 arrested for driving a motor vehicle while under the influence of intoxicants in violation of ORS
11 813.010 or of a municipal ordinance. A test shall be administered upon the request of a police officer
12 having reasonable grounds to believe the person arrested to have been driving while under the in-
13 fluence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. Before the test is
14 administered the person requested to take the test shall be informed of consequences and rights as
15 described under ORS 813.130.

16 (2) If a person refuses to submit to a test under this section or if a breath test under this section
17 discloses that the person, at the time of the test, had a level of alcohol in the person's blood that
18 constitutes being under the influence of intoxicating liquor under ORS 813.300 and the person has
19 been informed of rights and consequences as provided under ORS 813.130, the person's driving
20 privileges are subject to suspension under ORS 813.410 and the police officer shall do all of the
21 following:

22 (a) Immediately take custody of any driver license or permit issued by this state to the person
23 to grant driving privileges.

24 (b) Provide the person with a written notice of intent to suspend, on forms prepared and pro-
25 vided by the Department of Transportation. The written notice shall inform the person of conse-
26 quences and rights as described under ORS 813.130.

27 (c) If the person qualifies under ORS 813.110, issue to the person, on behalf of the department,
28 a temporary driving permit described under ORS 813.110.

29 (d) Within a period of time required by the department by rule, report action taken under this
30 section to the department and prepare and cause to be delivered to the department a report as de-
31 scribed in ORS 813.120, along with the confiscated license or permit and a copy of the notice of in-

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 tent to suspend.

2 (3) If a blood test under this section discloses that the person, at the time of the test, had a level
3 of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor
4 under ORS 813.300, the person's driving privileges are subject to suspension under ORS 813.410 and
5 the police officer shall report to the department within 45 days of the date of arrest that the person
6 failed the blood test.

7 (4) Nothing in this section precludes a police officer from obtaining a chemical test of the
8 person's breath or blood through any lawful means for use as evidence in a criminal or civil pro-
9 ceeding including, but not limited to, obtaining a search warrant.

10 **SECTION 2.** ORS 813.320 is amended to read:

11 813.320. (1) The provisions of the [*implied consent law*] **Motorist Implied Consent Law**, except
12 ORS 813.300, [*shall*] **may** not be construed by any court to limit the introduction of otherwise com-
13 petent, relevant evidence in any civil action, suit or proceedings or in any criminal action other
14 than a violation of ORS 813.010 or a similar municipal ordinance in proceedings under ORS 813.410.

15 (2) The provisions of the [*implied consent law shall*] **Motorist Implied Consent Law may** not
16 be construed by any court to limit the introduction of otherwise competent, relevant evidence of the
17 amount of alcohol in the blood of a defendant in a prosecution for driving while under the influence
18 of intoxicants.

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