

House Bill 2102

Sponsored by Representative HUFFMAN (Presession filed.)

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**.

Modifies laws relating to driving while under influence of intoxicants.

A BILL FOR AN ACT

Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS 430.165, 430.197, 807.240, 807.250, 809.235, 809.280, 809.409, 813.040, 813.130, 813.132, 813.400, 813.430, 813.510, 813.520 and 813.602; and repealing ORS 813.500.

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

ELIMINATION OF TREATMENT REQUIREMENT BEFORE ISSUANCE OF HARDSHIP PERMIT

SECTION 1. ORS 813.500 is repealed.

SECTION 2. ORS 813.510 is amended to read:

813.510. This section establishes limitations that the Department of Transportation is required or permitted to place on hardship permits issued under ORS 807.240 to persons whose suspension is based upon a conviction for driving under the influence of intoxicants or upon ORS 813.100. Limitations placed on a hardship permit under this section are in addition to any limitations placed on the permit under ORS 807.240. A person's permit is subject to suspension or revocation as provided under ORS 807.240 if the department determines that the holder of the permit has violated any limitation placed upon the permit under this section. Violation of a limitation under this section is punishable as provided by ORS 811.175 or 811.182. The limitations are as described in the following:

(1) A hardship permit issued to the person shall limit the person's driving privileges:

(a) To the times, places, routes and days the department determines to be minimally necessary for the person to seek or retain employment, to attend any alcohol or drug treatment or rehabilitation program **or program of recovery, including Alcoholics Anonymous, Narcotics Anonymous and similar programs**, or to obtain required medical treatment for the person or a member of the person's immediate family; and

(b) To times, places, routes and days that are specifically stated.

(c) To provide necessary services to the person or to a member of the person's immediate family. The department shall determine by rule what constitutes necessary services for purposes of this paragraph. The rules must include as necessary services, but need not be limited to, grocery shopping, driving the person or the person's children to school, driving to medical appointments and caring for elderly family members.

(2) The person's driving privileges under the permit are subject to suspension or revocation if

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 the person does not maintain a good driving record, as defined by the administrative rules of the
 2 department, during the term of the permit.

3 *[(3) If the person is in a rehabilitation program under ORS 813.500, the person must complete the
 4 rehabilitation program.]*

5 *[(4)] (3)* The department may require the person to complete a driver improvement program un-
 6 der ORS 809.480 as a condition of the permit.

7 *[(5)] (4)* If the person is involved in a diversion agreement under ORS 813.220 and 813.230, the
 8 department may require the person to successfully complete the diversion program as a condition
 9 of retaining the permit.

10 *[(6)] (5)* The department shall condition the permit so that the permit will be revoked if the
 11 person is convicted of any of the following:

12 (a) Reckless driving under ORS 811.140.

13 (b) Driving under the influence of intoxicants under ORS 813.010.

14 (c) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

15 (d) Fleeing or attempting to elude a police officer under ORS 811.540.

16 (e) Driving while suspended or revoked under ORS 811.175 or 811.182.

17
 18 **ELIMINATING WAITING PERIOD TO RECEIVE HARDSHIP PERMIT**

19
 20 **SECTION 3.** ORS 813.520 is amended to read:

21 813.520. In addition to any provisions of ORS 807.240, **807.250** and 813.510 *[or 807.250]*, this
 22 section establishes limitations on the authority of the Department of Transportation to issue driving
 23 privileges under ORS 807.240. The department may not reinstate any driving privileges or issue any
 24 hardship permit under ORS 807.240 **to any person who has a mental or physical condition or**
 25 **impairment that affects the person's ability to safely operate a motor vehicle.** *[as provided*
 26 *under any of the following:]*

27 *[(1) For a period of 90 days after the beginning of the suspension if the suspension is for refusal*
 28 *of a test under ORS 813.100 and the person is not subject to an increase in the time before a permit*
 29 *may be issued for reasons described in ORS 813.430. This period of 90 days shall be reduced by the*
 30 *time the department refused to issue a hardship permit under subsection (5) or (6) of this section if the*
 31 *person's driving privileges were suspended based on the same occurrence.]*

32 *[(2) For a period of 30 days after the beginning of the suspension if the suspension is because a*
 33 *breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's*
 34 *blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the*
 35 *person is not subject to an increase in the time before a hardship permit may be issued for reasons*
 36 *described in ORS 813.430. This period of 30 days shall be reduced by the time the department refused*
 37 *to issue a hardship permit under subsection (5) or (6) of this section if the person's driving privileges*
 38 *were suspended based on the same occurrence.]*

39 *[(3) For a period of one year after the beginning of the suspension if the suspension is because a*
 40 *breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's*
 41 *blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the*
 42 *person is subject to an increase in the time before a hardship permit may be issued for reasons de-*
 43 *scribed under ORS 813.430. This period of one year shall be reduced by the time the department re-*
 44 *ferred to issue a hardship permit under subsection (5) or (6) of this section if the person's driving*
 45 *privileges were suspended based on the same occurrence.]*

1 [(4) For a period of three years after the beginning of the suspension if the suspension is for refusal
2 of a test under ORS 813.100 and the person is subject to an increase in the time before a hardship
3 permit may be issued for reasons described in ORS 813.430. This period of three years shall be reduced
4 by the time the department refused to issue a hardship permit under subsection (5) or (6) of this section
5 if the person's driving privileges were suspended based on the same occurrence.]

6 [(5) For a period of 90 days after the beginning of the suspension under ORS 813.400 if it is the
7 person's second conviction for driving while under the influence of intoxicants if the suspension period
8 is determined by ORS 809.428 (2)(b). This period of 90 days shall be reduced by the time the depart-
9 ment refused to issue a hardship permit under subsection (1), (2), (3) or (4) of this section if the person's
10 driving privileges were suspended based on the same occurrence.]

11 [(6) For a period of one year after the beginning of the suspension under ORS 813.400 for driving
12 while under the influence of intoxicants if the suspension period is determined by ORS 809.428 (2)(c).
13 This period of one year shall be reduced by the time the department refused to issue a hardship permit
14 under subsection (1), (2), (3) or (4) of this section if the person's driving privileges were suspended
15 based on the same occurrence.]

16 [(7) To any person who has a mental or physical condition or impairment that affects the person's
17 ability to safely operate a motor vehicle.]

18 [(8) If the suspension is based upon a conviction for a violation of ORS 813.010 or is imposed
19 under ORS 813.410 based upon ORS 813.100 to a person who has available public or private trans-
20 portation sufficient to fulfill the person's transportation needs while the person is suspended.]

21 [(9) For a period of 30 days following imposition of suspension, if the person, within the previous
22 year, has been convicted of a traffic crime and the suspension is based upon a conviction for violation
23 of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100.]

24 **SECTION 4.** ORS 813.132 is amended to read:

25 813.132. (1) Except as otherwise provided in this section, a refusal to take a urine test requested
26 under ORS 813.131 shall be treated for all purposes as a refusal to take a breath test. A suspension
27 imposed for refusal to take a urine test shall be consecutive to any other suspension imposed under
28 the Motorist Implied Consent Law. *[If a person is subject to consecutive suspensions, the length of time*
29 *that must elapse before the Department of Transportation may reinstate driving privileges or issue a*
30 *hardship permit under ORS 813.520 shall be doubled.]*

31 (2) Before any test of urine may be administered under ORS 813.131, in addition to information
32 described in ORS 813.130, the person asked to take the test shall be informed that if the person re-
33 fuses the test, the person's driving privileges will be suspended for the same time period and with
34 the same consequences as if the person had refused the breath test and that a suspension for refusal
35 of the urine test will be consecutive to any other suspension under the Motorist Implied Consent
36 Law.

37 (3) Notwithstanding subsection (1) of this section, no suspension of driving privileges shall be
38 imposed for refusal to provide a urine sample if the person provides documentation from a physician
39 licensed by this state showing that the person has a medical condition that makes it impossible for
40 the person to provide a sample.

41 **SECTION 5.** ORS 813.430 is amended to read:

42 813.430. This section establishes circumstances under which ORS 813.420 requires an increase
43 in the time for suspension of driving privileges *[and under which ORS 813.520 requires an increase*
44 *in the time before the Department of Transportation may issue a hardship permit]*. A person is subject
45 to an increase in suspension time under this section if any of the following apply:

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

4 (2) Within the five years preceding the date of arrest any of the following occurred:

5 (a) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replace-
6 ment Part) became effective.

7 (b) The person was convicted of:

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

9 (i) ORS 813.010;

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

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

12 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
13 impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an
14 inhalant or any combination thereof; or

15 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
16 blood alcohol content above that jurisdiction's permissible blood alcohol content.

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

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

24 **SECTION 6.** ORS 813.130 is amended to read:

25 813.130. This section establishes the requirements for information about rights and consequences
26 for purposes of ORS 813.100 and 813.410. The following apply to the information about rights and
27 consequences:

28 (1) The information about rights and consequences shall be substantially in the form prepared
29 by the Department of Transportation. The department may establish any form it determines appro-
30 priate and convenient.

31 (2) The information about rights and consequences shall be substantially as follows:

32 (a) Driving under the influence of intoxicants is a crime in Oregon, and the person is subject
33 to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of
34 intoxicants. If the person refuses a test or fails, evidence of the refusal or failure may also be offered
35 against the person.

36 (b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test
37 discloses a blood alcohol content of 0.08 percent or more by weight. The person will fail a test for
38 purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:

39 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

40 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

41 (C) Any amount if the person was under 21 years of age.

42 (c) If the person refuses or fails a test under ORS 813.100, the person's driving privileges will
43 be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will
44 not affect the suspension. The suspension will be substantially longer if the person refuses a test.

45 (d) If the person refuses a test or fails a breath test under ORS 813.100 and has an Oregon

1 driver license or permit, the license or permit will be taken immediately and, unless the person does
2 not currently have full valid driving privileges, a temporary driving permit will be issued to the
3 person.

4 *[(e) If the person refuses a test under ORS 813.100, the person is not eligible for a hardship permit*
5 *for at least 90 days, and possibly for three years, depending on the following factors set forth in ORS*
6 *813.430:]*

7 *[(A) Whether the person is presently participating in a driving while under the influence of*
8 *intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in*
9 *this or another jurisdiction; or]*

10 *[(B) Whether within the five years preceding the date of arrest any of the following occurred:]*

11 *[(i) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replace-*
12 *ment Part) became effective;]*

13 *[(ii) The person was convicted of driving while under the influence of intoxicants in violation of*
14 *ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction, as described in ORS*
15 *813.430;]*

16 *[(iii) The person was convicted of driving while under the influence of intoxicants in violation of*
17 *a municipal ordinance in this state or another jurisdiction, as described in ORS 813.430; or]*

18 *[(iv) The person commenced participating in a driving while under the influence of intoxicants di-*
19 *vision program in this state or in any similar alcohol or drug rehabilitation program in this or an-*
20 *other jurisdiction, as described in ORS 813.430.]*

21 *[(f)] (e) If the person refuses a breath test under ORS 813.100, or refuses a urine test under ORS*
22 *813.131 and 813.132, the person is subject to a fine of at least \$500 and not more than \$1,000.*

23 *[(g)] (f) After taking a test under ORS 813.100, the person will have a reasonable opportunity,*
24 *upon request, for an additional chemical test for blood alcohol content to be performed at the*
25 *person's own expense by a qualified individual of the person's choosing.*

26 *[(h)] (g) The person has a right to a hearing to challenge the validity of the suspension before*
27 *the suspension becomes effective. The person must make a written request to the department for*
28 *such a hearing. If the person wins at the hearing, the person's driving privileges will not be sus-*
29 *pending. If the person loses at the hearing, the suspension will remain in effect during any court*
30 *review of the hearing.*

31 *[(i)] (h) If the person is issued a temporary driving permit under ORS 813.100, the information*
32 *provided to the person shall include the number of hours before the driving permit will be effective*
33 *and the number of days the permit will be effective.*

34 *[(j)] (i) The information provided to the person shall include the number of days within which*
35 *a person must request a hearing under ORS 813.410.*

36 *[(k)] (j) The information provided to the person shall include the number of days within which*
37 *a hearing under ORS 813.410 will be held.*

38 *[(L) The person may possibly qualify for a hardship permit in 30 days if the person fails a test,*
39 *depending on the person's driving record.]*

40 (3) If the person is driving a commercial motor vehicle, the information about rights and con-
41 sequences shall include, in addition to the provisions of subsection (2) of this section, substantially
42 the following:

43 (a) If the person refuses a test under ORS 813.100 or submits to a breath or blood test and the
44 level of alcohol in the person's blood is 0.04 percent or more by weight, the person's commercial
45 driving privileges or right to apply for commercial driving privileges will be suspended and no

1 hardship permit authorizing the person to drive a commercial motor vehicle will be issued. The
 2 suspension will be substantially longer if the person refuses a test.

3 (b) The suspension of the person's commercial driving privileges or right to apply for commercial
 4 driving privileges will be for the person's lifetime if the person refuses a test under ORS 813.100 or
 5 submits to a breath or blood test and the level of alcohol in the person's blood is 0.04 percent or
 6 more by weight and:

7 (A) The person previously has been convicted of failure to perform the duties of a driver;

8 (B) The person previously has been convicted of a crime punishable as a felony and the person
 9 was driving a motor vehicle at the time the offense was committed;

10 (C) The person previously has been convicted of driving a commercial motor vehicle while the
 11 person's commercial driving privileges or right to apply for commercial driving privileges was sus-
 12 pended or revoked for offenses committed while operating a commercial motor vehicle;

13 (D) The person previously has been convicted of any degree of murder, manslaughter or
 14 criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault
 15 in the first degree resulting from the operation of a commercial motor vehicle;

16 (E) The person previously has been convicted of driving while under the influence of intoxicants;

17 (F) The person's commercial driving privileges previously have been suspended or revoked for
 18 refusal to submit to, or failure of, a breath or blood test under ORS 813.100; or

19 (G) The person's right to apply for commercial driving privileges previously has been suspended
 20 or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting
 21 from the operation of a commercial motor vehicle.

22 (4) Nothing in this section prohibits the department from providing additional information con-
 23 cerning rights and consequences that the department considers convenient or appropriate.

24
 25 **10-YEAR SUSPENSION IN LIEU OF LIFETIME REVOCATION**

26
 27 **SECTION 7.** ORS 809.235 is amended to read:

28 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
 29 privileges be permanently revoked if the person is convicted of any degree of murder and the court
 30 finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the
 31 death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in
 32 the first or second degree resulting from the operation of a motor vehicle, criminally negligent
 33 homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from
 34 the operation of a motor vehicle.

35 (b) The court shall order that a person's driving privileges be [*permanently revoked*] **suspended**
 36 **for 10 years** if the person is convicted of felony driving while under the influence of intoxicants in
 37 violation of ORS 813.010 or if the person **has, at least two times in the 15 years before the date**
 38 **of the current offense, been** [*is*] convicted [*for a third or subsequent time*] of any of the following
 39 offenses in any combination:

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

41 (i) ORS 813.010; or

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

43 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
 44 impaired driving of a vehicle due to the use of intoxicating liquor, a controlled substance, an
 45 inhalant or any combination thereof.

1 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
 2 blood alcohol content above that jurisdiction's permissible blood alcohol content.

3 (c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in
 4 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
 5 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
 6 of age or older does not constitute a prior conviction.

7 (2)(a) A person whose driving privileges are revoked as described in subsection [(1)] (1)(a) of this
 8 section may file a petition in the circuit court of the county in which the person's driving privileges
 9 were revoked for an order restoring the person's driving privileges. A petition may be filed under
 10 this subsection no sooner than 10 years after the person is:

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

13 (B) Sentenced to probation for the crime for which the person's driving privileges were revoked,
 14 unless the probation is revoked, in which case the petition may be filed no sooner than 10 years
 15 after the date probation is revoked; or

16 (C) Sentenced for the crime for which the person's driving privileges were revoked, if no other
 17 provision of this paragraph applies.

18 (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the
 19 crime for which the person was convicted the person is convicted of a criminal offense involving a
 20 motor vehicle, the person may file a petition to restore driving privileges as described in paragraph
 21 (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving
 22 a motor vehicle.

23 (c) The district attorney of the county in which the person's driving privileges were revoked
 24 shall be named and served as the respondent in the petition.

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

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

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

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

31 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
 32 chological evaluation ordered by the court to determine whether the person is presently a threat to
 33 the safety of the public.

34 (e) Any other relevant factors.

35 (4) The court shall order a petitioner's driving privileges restored if, after a hearing described
 36 in subsection (3) of this section, the court finds by clear and convincing evidence that the petitioner:

37 (a) Is rehabilitated;

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

39 (c) If the sentence for the crime for which the petitioner's driving privileges were revoked re-
 40 quired the petitioner to complete an alcohol or drug treatment program, has completed an alcohol
 41 or drug treatment program in a facility approved by the Director of the Oregon Health Authority
 42 or a similar program in another jurisdiction.

43 (5) Upon receiving a court order to restore a person's driving privileges, the department may
 44 reinstate driving privileges in accordance with ORS 809.390, except that the department may not
 45 reinstate driving privileges of any person whose privileges are revoked under this section until the

1 person complies with future responsibility filings.

2 **SECTION 8.** ORS 809.280 is amended to read:

3 809.280. (1) Upon receipt of a court order under ORS 809.270, the Department of Transportation
4 shall suspend the person's driving privileges. The suspension shall remain in effect until the de-
5 partment is notified by the court that the suspension is ended, except that, if the department is or-
6 dered to automatically reinstate the driving privileges upon the successful completion of a program,
7 the department shall do so and shall notify the judge that the person has complied with the order
8 of the judge.

9 (2) Upon receipt of a court order under ORS 809.120, the department shall suspend the person's
10 driving privileges. The suspension shall be for the period ordered by the court. The court may only
11 order suspension for a period not to exceed 90 days.

12 (3) Upon receipt of a court notice under ORS 809.130 of an unsettled judgment, the department
13 shall suspend the person's driving privileges and, subject to any other requirements of law, reinstate
14 the driving privileges upon appropriate notification from the court under ORS 809.130, except that
15 the department shall only impose the suspension after the department has determined that:

- 16 (a) The judgment was rendered against the person;
- 17 (b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and
- 18 (c) The judgment continues to be unsettled as described in ORS 809.470.

19 (4) Upon receipt of a court notice under ORS 419C.472 or 809.220, the department shall suspend
20 the person's driving privileges for an indefinite period. The department shall reinstate driving priv-
21 ileges that have been suspended under this subsection upon notification by the court or upon the
22 elapse of 10 years from the date the traffic offense or violation of ORS 471.430 occurred, whichever
23 comes first. The department may not suspend any driving privileges under this subsection for a
24 person's failure to appear on a parking, pedestrian or bicyclist offense.

25 (5) Upon receipt of a court notice under ORS 810.310, the department shall suspend the person's
26 driving privileges for an indefinite period. The department shall reinstate driving privileges that
27 have been suspended under this subsection upon notification by the court or upon the lapse of 10
28 years from the date of suspension, whichever comes first.

29 (6) Upon receipt of a court order under ORS 809.260, the department shall suspend the person's
30 driving privileges as follows:

- 31 (a) Upon receipt of the first order suspending driving privileges, the department shall suspend
32 the person's driving privileges for one year, or until the person reaches 17 years of age, whichever
33 is longer.
- 34 (b) Upon receipt of a second or subsequent order suspending driving privileges, the department
35 shall suspend the person's driving privileges for one year or until the person reaches 18 years of
36 age, whichever is longer.

37 (7) If the department receives notice from a court that it has withdrawn an order issued under
38 ORS 809.260, the department shall immediately reinstate any driving privileges that have been sus-
39 pended under subsection (6) of this section because of the issuance of the order.

40 (8) Upon receipt of a court order under ORS 165.805 or 471.430, the department shall suspend
41 the person's driving privileges. The suspension shall be for the period ordered by the court. The
42 court may only order suspension for a period not to exceed one year.

43 (9) Upon receipt of a court order under ORS 809.265, the department shall suspend the person's
44 driving privileges for six months.

45 (10)(a) Upon receipt of a court order under ORS 809.235 (1)(a), the department shall perma-

1 nently revoke the person's driving privileges. The revocation shall remain in effect until the de-
 2 partment is notified by a court that the person's driving privileges have been ordered restored.

3 **(b) Upon receipt of a court order under ORS 809.235 (1)(b), the department shall suspend**
 4 **the person's driving privileges for 10 years.**

5 (11) When a court orders suspension of driving privileges under ORS 811.109 (4), the department
 6 shall suspend the person's driving privileges. The suspension shall be for the period ordered by the
 7 court. The court may only order suspension for a period not to exceed 30 days.

8 (12) When a court orders suspension of driving privileges under ORS 811.109 (5), the department
 9 shall suspend the person's driving privileges. The suspension shall be for the period ordered by the
 10 court. The court may only order suspension for not less than 30 days and not more than 90 days.

11 (13) Upon receipt of a court order under ORS 811.135, the department shall suspend the person's
 12 driving privileges for one year.

13 **SECTION 9.** ORS 809.409 is amended to read:

14 809.409. (1)(a) Upon receipt of a record of conviction of an offense described in this section, the
 15 Department of Transportation shall revoke the driving privileges of the person convicted.

16 (b) A person is entitled to administrative review under ORS 809.440 of a revocation under this
 17 section.

18 (c) Except as otherwise provided in subsections (2) and (3) of this section, the revocation shall
 19 be for a period of one year from the date of revocation, except that the department may not rein-
 20 state driving privileges of any person whose privileges are revoked under this section until the
 21 person complies with future responsibility filings.

22 (2) The department shall take action under subsection (1) of this section upon receipt of a record
 23 of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked
 24 or any degree of murder, manslaughter or criminally negligent homicide resulting from the operation
 25 of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle,
 26 except that the provisions of this subsection do not apply to a person whose driving privileges are
 27 ordered revoked under ORS 809.235 (1)(a). A person whose driving privileges are revoked under this
 28 subsection may apply for reinstatement of driving privileges:

29 (a) If the sentence for the crime for which the person's driving privileges were revoked, or any
 30 other crimes arising from the same criminal episode, includes incarceration, no sooner than 10 years
 31 from the date the person is released from incarceration for all crimes arising out of the same crim-
 32 inal episode; or

33 (b) If the sentence for the crime for which the person's driving privileges were revoked and any
 34 other crimes arising from the same criminal episode does not include incarceration, no sooner than
 35 10 years from the date the department revoked the privileges under this subsection.

36 (3)(a) Except as provided in paragraphs (b) and (c) of this subsection, the department shall take
 37 action under subsection (1) of this section upon receipt of a record of conviction of failure to per-
 38 form the duties of a driver to injured persons under ORS 811.705.

39 (b) The department shall revoke driving privileges under this subsection for a period of three
 40 years if the court indicates on the record of conviction that a person sustained serious physical in-
 41 jury, as defined in ORS 161.015, as a result of the accident. The person may apply for reinstatement
 42 of privileges three years after the date the person was released from incarceration, if the sentence
 43 includes incarceration. If the sentence does not include incarceration, the person may apply for
 44 reinstatement three years from the date the revocation was imposed under this subsection.

45 (c) The department shall revoke driving privileges under this subsection for a period of five

1 years if the court indicates on the record of conviction that a person was killed as a result of the
 2 accident. The person may apply for reinstatement of privileges five years after the date the person
 3 was released from incarceration, if the sentence includes incarceration. If the sentence does not
 4 include incarceration, the person may apply for reinstatement five years from the date the revoca-
 5 tion was imposed under this subsection.

6 (4) The department shall take action under subsection (1) of this section upon receipt of a record
 7 of conviction of perjury or the making of a false affidavit to the department under any law of this
 8 state requiring the registration of vehicles or regulating their operation on the highways.

9 (5) The department shall take action under subsection (1) of this section upon receipt of a record
 10 of conviction of any felony with a material element involving the operation of a motor vehicle.

11 **SECTION 10.** ORS 813.400 is amended to read:

12 813.400. (1) Except as provided in subsection (2) of this section, upon receipt of a record of
 13 conviction for misdemeanor driving while under the influence of intoxicants, the Department of
 14 Transportation shall suspend the driving privileges of the person convicted. The suspension shall
 15 be for a period described under Schedule II of ORS 809.428, except the department shall not rein-
 16 state any driving privileges to the person until the person complies with future responsibility filings.
 17 A person is entitled to administrative review under ORS 809.440 of a suspension imposed under this
 18 subsection.

19 (2) A person convicted of felony driving while under the influence of intoxicants, or a person
 20 convicted of misdemeanor driving while under the influence of intoxicants for a third or subsequent
 21 time **within the time specified in ORS 809.235 (1)(b)**, is subject to [*revocation*] **suspension** of
 22 driving privileges as provided in ORS 809.235.

23 **SECTION 11.** ORS 813.602 is amended to read:

24 813.602. (1) Subject to subsection (2) of this section, when a person is convicted of driving while
 25 under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the De-
 26 partment of Transportation, in addition to any other requirement, shall require that the person have
 27 installed and be using an approved ignition interlock device in any vehicle operated by the person:

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

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

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

36 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the
 37 department, in addition to any other requirement, shall require that the person have installed and
 38 be using an approved ignition interlock device in any vehicle operated by the person for five years
 39 after the ending date of the longest running suspension or revocation caused by any of the con-
 40 victions. Violation of the condition imposed under this subsection is a Class A traffic violation. A
 41 person is subject to this subsection when the person is convicted of:

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

44 (A) Any degree of murder.

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

1 (C) Criminally negligent homicide.

2 (D) Assault in the first degree.

3 (b) Aggravated vehicular homicide.

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

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

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

12 (i) The person submitted to a chemical test of the person's breath or blood as required under
13 ORS 813.100 and the test disclosed a blood alcohol content of 0.08 percent or more by weight;

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

15 (iii) The person submitted to a chemical test of the person's breath, blood or urine as required
16 under ORS 813.100 or 813.131 and the test disclosed a blood alcohol content of more than 0.00 per-
17 cent by weight but less than 0.08 percent by weight and disclosed the presence of a controlled sub-
18 stance or an inhalant.

19 (B) The court may require that an approved ignition interlock device be installed and used in
20 any vehicle operated by the person during the period of the agreement when the person has driving
21 privileges if the person submitted to a chemical test of the person's breath, blood or urine as re-
22 quired under ORS 813.100 or 813.131 and the test disclosed a blood alcohol content below 0.08 per-
23 cent by weight.

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

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

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

33 (5) When a person is required to install an ignition interlock device under subsection (2) of this
34 section, the provider of the device shall provide notice of any installation or removal of the device
35 or any tampering with the device to:

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

38 (b) The district attorney or the city prosecutor.

39
40 **CONFORMING AMENDMENTS**

41
42 **SECTION 12.** ORS 430.165 is amended to read:

43 430.165. The Oregon Health Authority may prescribe fee schedules for any of the programs that
44 it establishes and operates under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to
45 430.880[*813.500*] and 813.510. The fees shall be charged and collected by the authority in the same

1 manner as charges are collected under ORS 179.610 to 179.770. When the authority acts under this
 2 section, “person in a state institution” or “person at a state institution” or any similar phrase, as
 3 defined in ORS 179.610, includes a person who receives services from a program for which fee
 4 schedules are established under this section.

5 **SECTION 13.** ORS 430.197 is amended to read:

6 430.197. The Mental Health Services Fund is established in the State Treasury, separate and
 7 distinct from the General Fund. The Mental Health Services Fund comprises moneys collected or
 8 received by the Oregon Health Authority, the Department of Human Services and the Department
 9 of Corrections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are continuously
 10 appropriated to the Oregon Health Authority, the Department of Human Services and the Depart-
 11 ment of Corrections for the purposes of paying the costs of:

12 (1) Services provided to a person in a state institution, as defined in ORS 179.610;

13 (2) Emergency psychiatric care, custody and treatment paid under ORS 426.241;

14 (3) Emergency care, custody or treatment provided to a person admitted to or detained in a state
 15 mental hospital or nonhospital facility under ORS 426.070, 426.140, 426.180 to 426.210, 426.228,
 16 426.232 or 426.233; and

17 (4) Programs operating under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to
 18 430.880[, 813.500] and 813.510.

19 **SECTION 14.** ORS 807.240 is amended to read:

20 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
 21 in a manner consistent with this section. A hardship driver permit grants the driving privileges
 22 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
 23 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
 24 a license. The following apply to a hardship driver permit:

25 (1) The department may only issue a permit to a person whose driving privileges under the ve-
 26 hicle code have been suspended.

27 (2) Except as provided in ORS 813.520, the department may reinstate the privilege to operate a
 28 motor vehicle of any person whose license to operate a motor vehicle has been suspended by issuing
 29 the person a hardship permit described under this section if such person qualifies under this section,
 30 ORS 807.250[,] **and** 807.252 [*and* 813.500]. However, the department may not issue a hardship permit
 31 authorizing a person to drive a commercial motor vehicle.

32 (3) To qualify for a hardship permit, a person must do all of the following in addition to any
 33 applicable provisions under ORS 807.250[,] **and** 807.252 [*and* 813.500]:

34 (a) The person must submit to the department an application for the permit that demonstrates
 35 the person’s need for the permit.

36 (b) The person must present satisfactory evidence, as determined by the department by rule:

37 (A) That the person must operate a motor vehicle as a requisite of the person’s occupation or
 38 employment;

39 (B) That the person must operate a motor vehicle to seek employment or to get to or from a
 40 place of employment;

41 (C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment
 42 or rehabilitation program **or program of recovery, including Alcoholics Anonymous, Narcotics**
 43 **Anonymous and similar programs;**

44 (D) That the person or a member of the person’s immediate family requires medical treatment
 45 on a regular basis and that the person must operate a motor vehicle in order that the treatment

1 may be obtained; or

2 (E) That the person's driving privileges are suspended for driving uninsured in violation of ORS
3 806.010 or for violation of ORS 165.805 or 471.430 and are not suspended for any other reason and
4 that the person must operate a motor vehicle in order to provide necessary services to the person
5 or to a member of the person's family. The department shall determine by rule what constitutes
6 necessary services for purposes of this subparagraph. The [rule] **rules** shall include as necessary
7 services, but need not be limited to, grocery shopping, driving the person or the person's children
8 to school, driving to medical appointments and caring for elderly family members.

9 (c) If the person is applying for a permit because the person or a member of the person's im-
10 mediate family requires medical treatment on a regular basis, the person must present, in addition
11 to any evidence required by the department under paragraph (b) of this subsection, a statement
12 signed by a licensed physician or certified nurse practitioner that indicates that the person or a
13 member of the person's immediate family requires medical treatment on a regular basis.

14 (d) The person must show that the person is not incompetent to drive nor a habitual incompe-
15 tent, reckless or criminally negligent driver as established by the person's driving record in this or
16 any other jurisdiction.

17 (e) The person must make a future responsibility filing.

18 (f) The person must submit any other information the department may require for purposes of
19 determining whether the person qualifies under this section, ORS 807.250, 807.252[, 813.500] and
20 813.520.

21 (4) If the department finds that the person meets the requirements of this section and any ap-
22 plicable requirements under ORS 807.250, 807.252[, 813.500] and 813.520, the department may issue
23 the person a hardship permit, valid for the duration of the suspension or for a shorter period of time
24 established by the department unless sooner suspended or revoked under this section. If the de-
25 partment issues the permit for a period shorter than the suspension period, renewal of the permit
26 shall be on such terms and conditions as the department may require. The permit:

27 (a) Shall limit the holder to operation of a motor vehicle only during specified times.

28 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
29 motor vehicle that the department deems proper or necessary. The limitations may include any
30 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
31 811.175 or 811.182.

32 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
33 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
34 813.510, may suspend or revoke the hardship permit.

35 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver
36 permit application fee under ORS 807.370. The department may not refund the fee if the application
37 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit
38 is the same fee as that charged for renewal of a license. The application fee charged under this
39 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS
40 807.370.

41 (7) The department may issue a permit granting the same driving privileges as those suspended
42 or may issue a permit granting fewer driving privileges, as the department determines necessary to
43 assure safe operation of motor vehicles by the permit holder.

44 **SECTION 15.** ORS 807.250 is amended to read:

45 807.250. (1) In addition to any requirements under ORS 807.240 and any applicable conditions

1 under ORS [813.500 and] 813.520, the Department of Transportation may not issue a hardship permit
 2 under ORS 807.240 to a person whose suspension of driving privileges is based upon a conviction
 3 of any of the following unless the person submits to the department a recommendation from the
 4 judge before whom the person was convicted:

5 (a) ORS 811.140.

6 (b) ORS 811.540.

7 (c) Driving while under the influence of intoxicants. *[If a person's driving privileges are sus-*
 8 *suspended for a conviction for driving while under the influence of intoxicants and the person is deter-*
 9 *mined under ORS 813.500 to have a problem condition involving alcohol, inhalants or controlled*
 10 *substances as described in ORS 813.040, the judge must:]*

11 *[(A) Make the recommendation with reference to the best interest of the public as well as of the*
 12 *defendant and the recommendation must be in writing.]*

13 *[(B) Recommend times, places, routes and days minimally necessary for the person to seek or retain*
 14 *employment, to attend any alcohol or drug treatment or rehabilitation program or to receive necessary*
 15 *medical treatment for the person or a member of the person's immediate family.]*

16 (2) The department may not issue a hardship permit to a person whose suspension of driving
 17 privileges is based on a conviction described in ORS 809.265.

18 (3) The department may not issue a hardship permit to a person whose driver license or driver
 19 permit is suspended pursuant to ORS 25.750 to 25.783.

20 (4) The department may not issue a hardship permit to a person whose driving privileges are
 21 suspended pursuant to ORS 809.280 (4) or 809.416 (1) or (2).

22 **SECTION 16.** ORS 813.040 is amended to read:

23 813.040. This section establishes, for purposes of ORS 471.432[,] **and** 807.060 [*and 813.500*], when
 24 a person has a problem condition involving alcohol, inhalants or controlled substances. For pur-
 25 poses of ORS 471.432[,] **and** 807.060 [*and 813.500*], a person has a problem condition involving alco-
 26 hol, inhalants or controlled substances if it is determined that the person has a problem condition
 27 in which the person's health or that of others is substantially impaired or endangered or the
 28 person's social or economic function is substantially disrupted because of the person's:

29 (1) Habitual or periodic use of alcoholic beverages; or

30 (2) Use of or loss of the ability to control the use of controlled substances, inhalants or other
 31 substances with abuse potential including a condition that may have developed:

32 (a) A physical dependence in which the body requires a continuing supply of a drug, inhalant
 33 or controlled substance to avoid characteristic withdrawal symptoms; or

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

36
 37 **APPLICABILITY**

38
 39 **SECTION 17.** The amendments to ORS 430.165, 430.197, 807.240, 807.250, 809.235, 809.280,
 40 809.409, 813.040, 813.130, 813.132, 813.400, 813.430, 813.510, 813.520 and 813.602 by sections 2 to
 41 16 of this 2017 Act and the repeal of ORS 813.500 by section 1 of this 2017 Act apply to:

42 (1) All hardship permits whether issued before, on or after the effective date of this 2017
 43 Act; and

44 (2) All driving privilege suspensions and revocations whether imposed before, on or after
 45 the effective date of this 2017 Act.

CAPTIONS

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SECTION 18. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.
