

**Enrolled**  
**Senate Bill 395**

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)

CHAPTER .....

AN ACT

Relating to driving while under the influence of intoxicants; creating new provisions; amending ORS 813.012 and section 3, chapter 1, Oregon Laws 2011; declaring an emergency; and providing for criminal sentence reduction that requires approval by a two-thirds majority.

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

**SECTION 1.** ORS 813.012 is amended to read:

813.012. (1) The Oregon Criminal Justice Commission shall classify *[a violation of ORS 813.010 that is a felony]* **felony driving while under the influence of intoxicants that is committed under the circumstances described in ORS 813.010** (5) as crime category 6 of the rules of the Oregon Criminal Justice Commission.

(2) In determining criminal history for a person convicted of a felony that has operation of a motor vehicle as an element, or of a felony that involved death, injury or property damage caused by the use of a motor vehicle, the commission shall:

(a) Consider two prior convictions of misdemeanor driving while under the influence of intoxicants to be equivalent to one conviction of felony driving while under the influence of intoxicants; and

(b) Consider felony driving while under the influence of intoxicants to be a person felony and consider misdemeanor driving while under the influence of intoxicants to be a person Class A misdemeanor.

**SECTION 2.** Section 3, chapter 1, Oregon Laws 2011, is amended to read:

**Sec. 3. [a.]** (1) Driving under the influence of intoxicants **under** ~~[(ORS 813.010)]~~ shall be a Class C felony if the defendant has been convicted of driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction, at least two times in the 10 years prior to the date of the current offense.

[b.] (2) Once a person has been sentenced for a Class C felony under this section, the 10-year time limitation is eliminated and any subsequent episode of driving under the influence of intoxicants shall be a Class C felony regardless of the amount of time which intervenes.

[c.] (3) Upon conviction for a Class C felony under this section, the person shall be sentenced to a mandatory minimum term of incarceration of 90 days, without reduction for any reason.

[d. *The state shall fully reimburse any county for the county's costs of incarceration, including any pretrial incarceration, for a person sentenced under this section.*]

**SECTION 3.** (1) **The Legislative Assembly finds and declares that:**

(a) In November of 2010, the voters enacted section 3, chapter 1, Oregon Laws 2011, which directed the state to fully reimburse counties for the costs of incarcerating persons sentenced under section 3, chapter 1, Oregon Laws 2011, including the costs of pretrial incarceration.

(b) Different counties incur different costs of incarceration and many counties incur different costs for different inmates within the same facility.

(c) The Legislative Assembly intends to honor the direction given by the voters while also creating an efficient and effective means by which to do so.

(d) Counties and the Department of Corrections have previously agreed that the calculated rate at which the department provides moneys to counties under ORS 423.530 for persons sentenced to 12 months or less incarceration is an efficient and effective means by which to reimburse counties for the costs of their incarceration.

(2) The department shall reimburse counties for the costs of incarcerating persons sentenced under section 3, chapter 1, Oregon Laws 2011, including the costs of pretrial incarceration.

(3) The department shall adopt rules prescribing the manner in which a county may submit a claim for reimbursement under this section. The reimbursement shall be calculated using the rate at which the department provides moneys to counties under ORS 423.530 for persons sentenced to 12 months or less incarceration.

(4) Reimbursements made to counties under this section must be made from moneys appropriated to the department for that purpose.

**SECTION 4.** This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by Senate June 22, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 27, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State