

A-Engrossed
House Bill 4026

Ordered by the House February 13
Including House Amendments dated February 13

Sponsored by Representatives THOMPSON, GREENLICK; Representatives BARKER, CAMERON, ESQUIVEL, HUFFMAN, JENSON, KENNEMER, KRIEGER, RICHARDSON, WEIDNER, WHISNANT, WHITSETT (Pre-session 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.

Requires providers of ignition interlock devices to notify agency or organization that conducted person's diagnostic assessment **and person's defense attorney of record** of any negative reports downloaded from ignition interlock device.

Requires installation of ignition interlock device equipped with camera or similar technology if court does not terminate diversion agreement following negative report.

A BILL FOR AN ACT

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

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

4 **SECTION 1. Sections 2 and 3 of this 2014 Act are added to and made a part of ORS**
5 **chapter 813.**

6 **SECTION 2. (1) As used in this section, "negative report" includes a report of tampering**
7 **with an ignition interlock device, unauthorized removal of the ignition interlock device,**
8 **lockouts or test violations recorded by the ignition interlock device.**

9 **(2) This section applies only to a person who has installed an ignition interlock device as**
10 **a condition of a driving while under the influence of intoxicants diversion agreement under**
11 **ORS 813.602 (3).**

12 **(3) After an ignition interlock device is installed, the provider that installed the device**
13 **shall notify the agency or organization, designated by the court under ORS 813.260, that**
14 **conducted the person's diagnostic assessment that the device has been installed. Notice of**
15 **the installation must be given within seven business days of installing the ignition interlock**
16 **device.**

17 **(4) Each time a provider has access to an ignition interlock device that the provider in-**
18 **stalled, the provider shall download all reports recorded on the device. If the provider**
19 **downloads a negative report, the provider shall notify the agency or organization that con-**
20 **ducted the person's diagnostic assessment. The provider must give notice of the negative**
21 **report within seven business days of downloading the negative report.**

22 **(5) If an agency or organization receives a notice under subsection (4) of this section of**
23 **a negative report, the agency or organization shall give notice:**

24 **(a) To the person;**

25 **(b) To the person's defense attorney of record when the attorney's contact information**

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 is provided to the agency or organization; and

2 (c)(A) To the person's treatment program provider, if any, and to the district attorney
3 or city attorney; or

4 (B) If the person is not in a treatment program, to the court that ordered the installation
5 of the ignition interlock device and to the district attorney or city attorney.

6 (6) An agency or organization shall give notice as provided under subsection (5) of this
7 section within seven business days of receiving notice of the negative report under sub-
8 section (4) of this section.

9 **SECTION 3.** (1) As used in this section, "negative report" includes a report of tampering
10 with an ignition interlock device, unauthorized removal of the ignition interlock device,
11 lockouts or test violations recorded by the ignition interlock device.

12 (2) Subject to subsection (3) of this section, if a court does not terminate a person's
13 driving while under the influence of intoxicants diversion agreement following a show cause
14 hearing under ORS 813.255, the court shall order the person to install an ignition interlock
15 device that identifies the person operating the device by means of a camera or other tech-
16 nology and that meets the requirements of rules adopted by the Department of Transporta-
17 tion under subsection (4) of this section.

18 (3) Subsection (2) of this section applies only if:

19 (a) The person previously was required to install an ignition interlock device as a condi-
20 tion of a driving while under the influence of intoxicants diversion agreement under ORS
21 813.602 (3);

22 (b) One of the stated reasons for the proposed termination of the person's diversion
23 agreement is that the person's ignition interlock device has produced a negative report; and

24 (c) The person does not at the time of the show cause hearing have an ignition interlock
25 device installed that identifies the person operating the device by means of a camera or other
26 technology and that meets the requirements of rules adopted by the department under sub-
27 section (4) of this section.

28 (4) The department shall adopt rules that specify requirements for ignition interlock de-
29 vices that are required to be installed under this section and shall publish a list of devices
30 that meet the requirements. The devices listed must:

31 (a) Meet the requirements described in ORS 813.600; and

32 (b) Be capable of identifying the user of the device by means of a camera or other tech-
33 nology.

34 **SECTION 4.** ORS 813.602 is amended to read:

35 813.602. (1) Except as provided in subsection (2) of this section, when a person is convicted of
36 driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-
37 nance, the Department of Transportation, in addition to any other requirement, shall require that
38 the person install and use an approved ignition interlock device in any vehicle operated by the
39 person:

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

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

45 (c) For a second or subsequent conviction, for two years after the ending date of the suspension

1 or revocation caused by the conviction. Violation of the condition imposed under this paragraph is
2 a Class A traffic violation.

3 (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the
4 department, in addition to any other requirement, shall require that the person install and use an
5 approved ignition interlock device in any vehicle operated by the person for five years after the
6 ending date of the longest running suspension or revocation caused by any of the convictions. Vi-
7 olation of the condition imposed under this subsection is a Class A traffic violation. A person is
8 subject to this subsection when the person is convicted of:

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

11 (A) Any degree of murder.

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

13 (C) Criminally negligent homicide.

14 (D) Assault in the first degree.

15 (b) Aggravated vehicular homicide.

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

19 (3)(a) Except as provided in paragraph (b) of this subsection, the court shall require as a con-
20 dition of a driving while under the influence of intoxicants diversion agreement that an approved
21 ignition interlock device be installed and used in any vehicle operated by the person during the
22 period of the agreement when the person has driving privileges. In addition to any action taken
23 under ORS 813.255, violation of the condition imposed under this subsection is a Class A traffic vi-
24 olation.

25 (b) A court may exempt a person from the condition in a diversion agreement to install and use
26 an ignition interlock device if the court determines that the person meets the requirements for a
27 medical exemption in accordance with rules adopted by the department under this section. A person
28 granted a medical exemption under this paragraph shall carry proof of the medical exemption with
29 the person while operating any vehicle.

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

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

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

43 (7) At the end of the suspension or revocation resulting from the conviction, the department
44 shall suspend the driving privileges or right to apply for driving privileges of a person who has not
45 submitted proof to the department that an ignition interlock device has been installed or who

1 tampers with an ignition interlock device after it has been installed.

2 (8) If the department imposes a suspension under subsection (7) of this section for failing to
3 submit proof of installation, the suspension continues until the department receives proof that the
4 ignition interlock device has been installed. If the department does not receive proof that the ig-
5 nition interlock device has been installed, the suspension shall continue for:

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

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

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

11 (9) If the department imposes a suspension under subsection (7) of this section for tampering
12 with an ignition interlock device, the suspension continues until:

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

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

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

18 (10) A person whose driving privileges or right to apply for privileges is suspended under sub-
19 section (7) of this section is entitled to administrative review, as described in ORS 809.440, of the
20 action.

21 (11) The department shall adopt rules permitting medical exemptions from the requirements of
22 installation and use of an ignition interlock device under subsections (1), (2) and (3) of this section.

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

28 **SECTION 5. Sections 2 and 3 of this 2014 Act and the amendments to ORS 813.602 by**
29 **section 4 of this 2014 Act apply to driving while under the influence of intoxicants diversion**
30 **agreements entered into on or after the effective date of this 2014 Act.**

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