

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4026

By COMMITTEE ON JUDICIARY

February 25

1 On page 1 of the printed A-engrossed bill, delete lines 6 through 25.

2 On page 2, delete lines 1 through 8 and insert:

3 **“SECTION 2. (1) As used in this section, ‘negative report’ includes a report of tampering**  
4 **with an ignition interlock device, unauthorized removal of the ignition interlock device,**  
5 **lockouts or test violations recorded by the ignition interlock device.**

6 **“(2) This section applies only to a person who has installed an ignition interlock device**  
7 **as a condition of a driving while under the influence of intoxicants diversion agreement un-**  
8 **der ORS 813.602 (3).**

9 **“(3) After an ignition interlock device is installed, the provider that installed the device**  
10 **shall notify the court that required the device to be installed that the device has been in-**  
11 **stalled. Notice of the installation must be given within seven business days of installing the**  
12 **ignition interlock device.**

13 **“(4) Each time a provider has access to an ignition interlock device that the provider**  
14 **installed, the provider shall download all reports recorded on the device. If the provider**  
15 **downloads a negative report, the provider shall notify the court. The provider must give**  
16 **notice of the negative report within seven business days of downloading the negative**  
17 **report.”.**

18 In line 14, delete “shall” and insert “may”.

19 Delete lines 34 through 45 and delete page 3.

20 On page 4, delete lines 1 through 27 and insert:

21 **“SECTION 4. ORS 813.602 is amended to read:**

22 **“813.602. (1) Except as provided in subsection (2) of this section, when a person is convicted of**  
23 **driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordi-**  
24 **nance, the Department of Transportation, in addition to any other requirement, shall require that**  
25 **the person install and use an approved ignition interlock device in any vehicle operated by the**  
26 **person:**

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

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

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

35 **“(2) When a person is convicted of a crime or multiple crimes as described in this subsection,**

1 the department, in addition to any other requirement, shall require that the person install and use  
2 an approved ignition interlock device in any vehicle operated by the person for five years after the  
3 ending date of the longest running suspension or revocation caused by any of the convictions. Vio-  
4 lation of the condition imposed under this subsection is a Class A traffic violation. A person is  
5 subject to this subsection when the person is convicted of:

6 “(a) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a munic-  
7 ipal ordinance and any of the following crimes as part of the same criminal episode:

8 “(A) Any degree of murder.

9 “(B) Manslaughter in the first or second degree.

10 “(C) Criminally negligent homicide.

11 “(D) Assault in the first degree.

12 “(b) Aggravated vehicular homicide.

13 “(c) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a munic-  
14 ipal ordinance and the person’s driving privileges are revoked under ORS 809.235 (1)(b) and later  
15 ordered restored under ORS 809.235 (4).

16 “(3)(a) Except as provided in paragraph [(b)] (c) of this subsection, [*the court shall require*] as a  
17 condition of a driving while under the influence of intoxicants diversion agreement:

18 “(A) **The court shall require** that an approved ignition interlock device be installed and used  
19 in any vehicle operated by the person during the period of the agreement when the person has  
20 driving privileges[.] **if:**

21 “(i) **The person submitted to a chemical test of the person’s breath or blood as required**  
22 **under ORS 813.100 and the test disclosed a blood alcohol content of 0.15 percent or more by**  
23 **weight; or**

24 “(ii) **The person refused to submit to a chemical test of the person’s breath or blood.**

25 “(B) **The court may require that an approved ignition interlock device be installed in any**  
26 **vehicle operated by the person during the period of the agreement when the person has**  
27 **driving privileges if the person submitted to a chemical test of the person’s breath or blood**  
28 **as required under ORS 813.100 and the test disclosed a blood alcohol content below 0.15 per-**  
29 **cent by weight.**

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.

32 “[b)] (c) A court may exempt a person from the condition in a diversion agreement to install  
33 and use an ignition interlock device if the court determines that the person meets the requirements  
34 for a medical exemption in accordance with rules adopted by the department under this section. A  
35 person granted a medical exemption under this paragraph shall carry proof of the medical exemption  
36 with the person while operating any vehicle.

37 “(4) Except as provided in subsection (5) of this section, if an ignition interlock system is or-  
38 dered or required under subsection (1), (2) or (3) of this section, the person so ordered or required  
39 shall pay to the provider the reasonable costs of leasing, installing and maintaining the device. A  
40 payment schedule may be established for the person by the department.

41 “(5) The department may waive, in whole or in part, or defer the defendant’s responsibility to  
42 pay all or part of the costs under subsection (4) of this section if the defendant meets the criteria  
43 for indigence established for waiving or deferring such costs under subsection (6) of this section. If  
44 the defendant’s responsibility for costs is waived, then notwithstanding ORS 813.270, the costs de-  
45 scribed in subsection (4) of this section must be paid from the Intoxicated Driver Program Fund.

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

5 “(7) At the end of the suspension or revocation resulting from the conviction, the department  
6 shall suspend the driving privileges or right to apply for driving privileges of a person who has not  
7 submitted proof to the department that an ignition interlock device has been installed or who  
8 tampers with an ignition interlock device after it has been installed.

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

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

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

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

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

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

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

30 “[12] *When a person is required to install an ignition interlock device under subsection (2) or (3)*  
31 *of this section, the provider of the device shall provide notice of any installation or removal of the de-*  
32 *vice or any tampering with the device to the court that ordered installation of the device or to the*  
33 *court’s designee, including but not limited to an agency or organization certified by the Oregon Health*  
34 *Authority under ORS 813.025.]”.*

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