

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4026**

1 On page 2 of the printed A-engrossed bill, line 14, delete “shall” and in-
2 sert “may”.

3 Delete lines 34 through 45 and delete page 3.

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

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

6 “813.602. (1) Except as provided in subsection (2) of this section, when a
7 person is convicted of driving while under the influence of intoxicants in
8 violation of ORS 813.010 or of a municipal ordinance, the Department of
9 Transportation, in addition to any other requirement, shall require that the
10 person install and use an approved ignition interlock device in any vehicle
11 operated by the person:

12 “(a) Before the person is eligible for a hardship permit. The requirement
13 is a condition of the hardship permit for the duration of the hardship permit.

14 “(b) For a first conviction, for one year after the ending date of the sus-
15 pension or revocation caused by the conviction. Violation of the condition
16 imposed under this paragraph is a Class A traffic violation.

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

20 “(2) When a person is convicted of a crime or multiple crimes as described
21 in this subsection, the department, in addition to any other requirement,
22 shall require that the person install and use an approved ignition interlock

1 device in any vehicle operated by the person for five years after the ending
2 date of the longest running suspension or revocation caused by any of the
3 convictions. Violation of the condition imposed under this subsection is a
4 Class A traffic violation. A person is subject to this subsection when the
5 person is convicted of:

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

9 “(A) Any degree of murder.

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

11 “(C) Criminally negligent homicide.

12 “(D) Assault in the first degree.

13 “(b) Aggravated vehicular homicide.

14 “(c) Driving while under the influence of intoxicants in violation of ORS
15 813.010 or of a municipal ordinance and the person’s driving privileges are
16 revoked under ORS 809.235 (1)(b) and later ordered restored under ORS
17 809.235 (4).

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

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

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

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

29 “(B) **The court may require that an approved ignition interlock de-**
30 **vice be installed in any vehicle operated by the person during the pe-**

1 **riod of the agreement when the person has driving privileges if:**

2 **“(i) The person submitted to a chemical test of the person’s breath**
3 **or blood as required under ORS 813.100 and the test disclosed a blood**
4 **alcohol content between 0.00 and 0.15 percent by weight; and**

5 **“(ii) The court finds a compelling public safety reason to order the**
6 **defendant to install an approved ignition interlock device.**

7 **“(C) The court may not require that an approved ignition interlock**
8 **device be installed in any vehicle operated by the person during the**
9 **period of the agreement when the person has driving privileges if the**
10 **person submitted to a chemical test of the person’s breath or blood**
11 **as required under ORS 813.100 and the test disclosed a blood alcohol**
12 **content of 0.00 percent by weight.**

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

15 **“[(b)] (c) A court may exempt a person from the condition in a diversion**
16 **agreement to install and use an ignition interlock device if the court deter-**
17 **mines that the person meets the requirements for a medical exemption in**
18 **accordance with rules adopted by the department under this section. A per-**
19 **son granted a medical exemption under this paragraph shall carry proof of**
20 **the medical exemption with the person while operating any vehicle.**

21 **“(4) Except as provided in subsection (5) of this section, if an ignition**
22 **interlock system is ordered or required under subsection (1), (2) or (3) of this**
23 **section, the person so ordered or required shall pay to the provider the rea-**
24 **sonable costs of leasing, installing and maintaining the device. A payment**
25 **schedule may be established for the person by the department.**

26 **“(5) The department may waive, in whole or in part, or defer the**
27 **defendant’s responsibility to pay all or part of the costs under subsection (4)**
28 **of this section if the defendant meets the criteria for indigence established**
29 **for waiving or deferring such costs under subsection (6) of this section. If the**
30 **defendant’s responsibility for costs is waived, then notwithstanding ORS**

1 813.270, the costs described in subsection (4) of this section must be paid from
2 the Intoxicated Driver Program Fund.

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

8 “(7) At the end of the suspension or revocation resulting from the con-
9 viction, the department shall suspend the driving privileges or right to apply
10 for driving privileges of a person who has not submitted proof to the de-
11 partment that an ignition interlock device has been installed or who tampers
12 with an ignition interlock device after it has been installed.

13 “(8) If the department imposes a suspension under subsection (7) of this
14 section for failing to submit proof of installation, the suspension continues
15 until the department receives proof that the ignition interlock device has
16 been installed. If the department does not receive proof that the ignition
17 interlock device has been installed, the suspension shall continue for:

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

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

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

26 “(9) If the department imposes a suspension under subsection (7) of this
27 section for tampering with an ignition interlock device, the suspension con-
28 tinues until:

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

1 “(b) Except as provided in paragraph (c) of this subsection, two years af-
2 ter the ending date of the suspension resulting from a second or subsequent
3 conviction; or

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

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

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

13 “[(12) *When a person is required to install an ignition interlock device*
14 *under subsection (2) or (3) of this section, the provider of the device shall*
15 *provide notice of any installation or removal of the device or any tampering*
16 *with the device to the court that ordered installation of the device or to the*
17 *court’s designee, including but not limited to an agency or organization certi-*
18 *fied by the Oregon Health Authority under ORS 813.025.].”*

19
