

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

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**
4 **a report of tampering with an ignition interlock device, unauthorized**
5 **removal of the ignition interlock device, lockouts or test violations**
6 **recorded by the ignition interlock device.**

7 **“(2) This section applies only to a person who has installed an ig-**
8 **niton interlock device as a condition of a driving while under the in-**
9 **fluence of intoxicants diversion agreement under ORS 813.602 (3).**

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

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

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

22 Delete lines 34 through 45 and delete page 3.

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

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

3 “813.602. (1) Except as provided in subsection (2) of this section, when a
4 person is convicted of driving while under the influence of intoxicants in
5 violation of ORS 813.010 or of a municipal ordinance, the Department of
6 Transportation, in addition to any other requirement, shall require that the
7 person install and use an approved ignition interlock device in any vehicle
8 operated by the person:

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

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

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

17 “(2) When a person is convicted of a crime or multiple crimes as described
18 in this subsection, the department, in addition to any other requirement,
19 shall require that the person install and use an approved ignition interlock
20 device in any vehicle operated by the person for five years after the ending
21 date of the longest running suspension or revocation caused by any of the
22 convictions. Violation of the condition imposed under this subsection is a
23 Class A traffic violation. A person is subject to this subsection when the
24 person is convicted of:

25 “(a) Driving while under the influence of intoxicants in violation of ORS
26 813.010 or of a municipal ordinance and any of the following crimes as part
27 of the same criminal episode:

28 “(A) Any degree of murder.

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

30 “(C) Criminally negligent homicide.

1 “(D) Assault in the first degree.

2 “(b) Aggravated vehicular homicide.

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

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

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

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

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

18 “(B) **The court may require that an approved ignition interlock de-**
19 **vice be installed in any vehicle operated by the person during the pe-**
20 **riod of the agreement when the person has driving privileges if the**
21 **person submitted to a chemical test of the person’s breath or blood**
22 **as required under ORS 813.100 and the test disclosed a blood alcohol**
23 **content below 0.15 percent by weight.**

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

26 “[*(b)*] (c) A court may exempt a person from the condition in a diversion
27 agreement to install and use an ignition interlock device if the court deter-
28 mines that the person meets the requirements for a medical exemption in
29 accordance with rules adopted by the department under this section. A per-
30 son granted a medical exemption under this paragraph shall carry proof of

1 the medical exemption with the person while operating any vehicle.

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

7 “(5) The department may waive, in whole or in part, or defer the
8 defendant’s responsibility to pay all or part of the costs under subsection (4)
9 of this section if the defendant meets the criteria for indigence established
10 for waiving or deferring such costs under subsection (6) of this section. If the
11 defendant’s responsibility for costs is waived, then notwithstanding ORS
12 813.270, the costs described in subsection (4) of this section must be paid from
13 the Intoxicated Driver Program Fund.

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

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

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

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

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

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

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

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

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

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

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