

Enrolled House Bill 2361

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon District Attorneys Association)

CHAPTER

AN ACT

Relating to revocation of driving privileges; creating new provisions; and amending ORS 809.235 and 813.400.

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

SECTION 1. ORS 809.235 is amended to read:

809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder or of manslaughter in the first degree and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim.

(b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants [*under*] **in violation of ORS 813.010** or if the person is convicted of misdemeanor driving while under the influence of intoxicants [*under ORS 813.010 for a third time.*] **in violation of ORS 813.010 or its statutory counterpart in any other jurisdiction for a third or subsequent time.**

[(2) No sooner than 10 years after a person whose privileges are revoked as described in subsection (1) of this section is released on parole or post-prison supervision, the person may file a petition in the circuit court of the county in which the person resides for an order restoring the person's driving privileges. The district attorney of the county shall be named and served as the respondent in the petition.]

(2)(a) A person whose driving privileges are revoked as described in subsection (1) of this section may file a petition in the circuit court of the county in which the person resides for an order restoring the person's driving privileges. A petition may be filed under this subsection no sooner than 10 years after the person is:

(A) Released on parole or post-prison supervision; or

(B) Sentenced to probation if the probation is not revoked and the person is thereafter discharged without the imposition of a sentence of imprisonment.

(b) The district attorney of the county in which the person resides shall be named and served as the respondent in the petition.

(3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this section. In determining whether to grant the petition, the court shall consider:

(a) The nature of the offense for which driving privileges were revoked.

(b) The degree of violence involved in the offense.

(c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that resulted in the revocation.

(d) The recommendation of the person's parole officer, which shall be based in part on a psychological evaluation ordered by the court to determine whether the person is presently a threat to the safety of the public.

(e) Any other relevant factors.

(4) If, after a hearing described in subsection (3) of this section, the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to the safety of the public, the court shall order the petitioner's driving privileges restored.

SECTION 2. ORS 813.400 is amended to read:

813.400. (1) Except as provided in subsection (2) of this section, upon receipt of a record of conviction for misdemeanor driving while under the influence of intoxicants, the Department of Transportation shall suspend the driving privileges of the person convicted. The suspension shall be for a period described under Schedule II of ORS 809.428, except the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings. A person is entitled to administrative review under ORS 809.440 of a suspension imposed under this subsection.

(2) A person convicted of felony driving while under the influence of intoxicants, or a person convicted of misdemeanor driving while under the influence of intoxicants for *[the third]* a **third or subsequent** time, is subject to revocation of driving privileges as provided in ORS 809.235.

SECTION 3. The amendments to ORS 809.235 and 813.400 by sections 1 and 2 of this 2005 Act apply to persons whose third or subsequent conviction of misdemeanor driving while under the influence of intoxicants occurs on or after the effective date of this 2005 Act.

Passed by House May 13, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 20, 2005

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President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State