

# Senate Bill 261

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## 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 **as introduced**.

Reduces penalty for driving while under influence of intoxicants if person was operating non-motorized vehicle.

## A BILL FOR AN ACT

1  
2 Relating to operating a nonmotorized vehicle while under the influence of intoxicants; creating new  
3 provisions; and amending ORS 813.010.

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

5 **SECTION 1.** ORS 813.010 is amended to read:

6 813.010. (1) A person commits the offense of driving while under the influence of intoxicants if  
7 the person drives a vehicle while the person:

8 (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by  
9 chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;

10 (b) Is under the influence of intoxicating liquor, a controlled substance or an inhalant; or

11 (c) Is under the influence of any combination of intoxicating liquor, an inhalant and a controlled  
12 substance.

13 (2) A person may not be convicted of driving while under the influence of intoxicants on the  
14 basis of being under the influence of a controlled substance or an inhalant unless the fact that the  
15 person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory  
16 instrument and is either proved at trial or is admitted by the person through a guilty plea.

17 (3) A person convicted of the offense described in this section is subject to ORS 813.020 in ad-  
18 dition to this section.

19 (4) Except as provided in [*subsection (5)*] **subsections (5) and (6)** of this section, the offense  
20 described in this section, driving while under the influence of intoxicants, is a Class A misdemeanor  
21 and is applicable upon any premises open to the public.

22 (5) Driving while under the influence of intoxicants is a Class C felony if the defendant has been  
23 convicted of driving while under the influence of intoxicants in violation of this section or its stat-  
24 utory counterpart in another jurisdiction at least three times in the 10 years prior to the date of the  
25 current offense and the current offense was committed in a motor vehicle. For purposes of this  
26 subsection, a prior conviction for boating while under the influence of intoxicants in violation of  
27 ORS 830.325 or its statutory counterpart in another jurisdiction, or for prohibited operation of an  
28 aircraft in violation of ORS 837.080 (1)(a) or its statutory counterpart in another jurisdiction, shall  
29 be considered a prior conviction of driving while under the influence of intoxicants.

30 **(6) Driving while under the influence of intoxicants is a Class A violation if the defendant**

**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 **was operating a nonmotorized vehicle at the time of the offense.**

2 [(6)] (7) In addition to any other sentence that may be imposed, the court shall impose a fine  
3 on a person convicted of driving while under the influence of intoxicants as follows:

4 (a) For a person's first conviction, a minimum of \$1,000.

5 (b) For a person's second conviction, a minimum of \$1,500.

6 (c) For a person's third or subsequent conviction, a minimum of \$2,000 if the person is not sen-  
7 tenced to a term of imprisonment.

8 [(7)] (8) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on  
9 a person convicted of driving while under the influence of intoxicants if:

10 (a) The current offense was committed in a motor vehicle; and

11 (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least  
12 three years younger than the person driving the motor vehicle.

13 **SECTION 2. The amendments to ORS 813.010 by section 1 of this 2005 Act apply to of-**  
14 **fenses committed on or after the effective date of this 2005 Act.**

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