

# Oregon House Bill 2613

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2316/Enrolled>

Bill summary and what it does:

A DUII if under the influence of alcohol, controlled substance, inhalant, cannabis, and psilocibin and *adds an additional prong for any impairing drug as defined in ORS 475.005 (or in combination)*

Contains an affirmative defense. **Only** applies to impairment caused by a substance that is not a controlled substance, inhalant, cannabis, or psilocibin (or if any of those are also involved. This was designed to not have the affirmative defense apply to what we currently have in place just when the only impairing substance is something that is part of the newly added prong.

It must be a reaction that the person could not reasonably anticipate (Example: Consuming an entire bottle of cough syrup they can anticipate that will be a problem for them). If the substance is a prescription medication (non-controlled), they must have taken it as prescribed. If an over-the-counter (OTC) person must have taken it as directed on the label.

Notice of Defense is required at least 45 days prior to the first trial date, unless parties agree to another date or court allows for good cause.

Codifies impairment as **“adversely affects a person’s mental or physical faculties to a noticeable or perceptible degree”** which is currently only a jury instruction based upon case law and has always been subject to change by the court of appeals/supreme court.

- Bicycle DUII Changes:
  - Reduces fines
  - Community service 48 hours
  - No VIP required
  - No DL suspension upon conviction
  - Bike DUII conviction will not count as a predicate for enhanced penalties
  - These changes DO NOT apply to electric assisted bicycles
- Diversion Changes – A person WILL qualify if:
  - Previous treatment received when under 18yo and the treatment was not part of a DUII
  - Previous treatment ordered as part of a dependency hearing and the treatment was not part of a DUII

**Effective and will apply to DUIIs committed on or after January 1, 2024.**

Information courtesy of Deena Ryerson, TSRP/DOJ