

OREGON DUII DIVERSION AGREEMENT

The Oregon DUII diversion program allows first time DUII offenders the opportunity to get their case dismissed if they successfully complete the program requirements. This means that if you complete diversion, you will not have a DUII conviction on your record. This Oregon DUII Diversion guide explains the diversion program, the eligibility requirements, and what you will be expected to do in diversion.

What you need to know about Oregon DUII Diversion

(1) Not everyone charged with a DUII is eligible for diversion—Allowing people to bypass prosecution is a privilege the State is careful with. Therefore, you must meet a series of conditions before you can petition for entry. **If you were the holder of a CDL at the time of the offense, you are not eligible for diversion**

(2) Not everyone eligible for Oregon DUII diversion gets into the program—Even if you are eligible for Oregon DUII diversion, you may not be accepted. Instead, a judge will consider a variety of factors to determine whether to allow you to participate in this program.

(3) Oregon DUII Diversion is not easy—The reality is that even if you get into diversion, it requires a lot of effort on your part to complete the program and have your case dismissed. Some people think this effort is worth it, and some don't. But because you plead guilty before you enter the program, you need to understand what you're getting into up front.

(4) No Alcohol for one year - The diversion period lasts for one year. During that period you are not allowed to consume alcohol or any other intoxicants

The next few sections will explain Oregon DUII Diversion Agreement in more detail, and try to give you a better idea of how diversion works and whether it may be a good idea for you.

A. ELIGIBILITY FOR THE OREGON DUII DIVERSION AGREEMENT:

If you were the holder of a CDL at the time of the offense, you are not eligible for diversion.

In addition, all of the following must be true on the date you enter the diversion program:

- There is no charge pending against you in any State, except the DUII charge, for an offense involving operation of a vehicle while under the include of intoxicants;
- You are not currently participating in a DUII diversion program or any similar alcohol or drug rehabilitation program in any State except a program you may have entered as a result of the current DUII charge;
- There is no charge or offense pending against you in any State for any degree of aggravated vehicular homicide, murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle;
- During the 15 years prior to the date of the presently alleged DUII offense and during the time between the presently alleged DUII offense and the date you enter the diversion program, you have not been convicted in any state for any offense involving the operation of a motor vehicle while under the influence of intoxicants;
- During the 15 years prior to the date of the presently alleged DUII offense and during the time between the presently alleged DUII offense and the date you enter the diversion program, you have not participated in a DUII diversion program or any similar alcohol or drug rehabilitation program in any state;

- During the 15 years prior to the date of the presently alleged DUII offense and during the time between the presently alleged DUII offense and the date you enter the diversion program, you have not been convicted in any state on any charge or offense in any degree for aggravated vehicular homicide, murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle; and
- If this is your second or subsequent diversion (i.e. you went through a diversion program over 15 years ago), you have not been convicted of any criminal offenses involving a motor vehicle.

If you satisfy all of these factors, congratulations—under the circumstances, you're in relatively good shape. The next step is filing a petition for entry into diversion. As noted above, this is where the judge and prosecution get to offer their input on whether you should be accepted into the program. Most eligible persons are allowed into the diversion program.

B. ACCEPTANCE INTO OREGON DUII DIVERSION

To be accepted, you must first file a petition with the court asking to be received into the diversion program. As a general rule, this must be filed within 30 days of your first court appearance on the charge. (ORS 813.210). At this time you will be required to pay a \$ 261 filing fee to the court, and (if the petition is allowed) you will also be required to pay a separate \$ 150 fee to a drug and alcohol screening agency. (ORS 813.240). Finally, the State may request a hearing if it opposes your entry into the program.

Once your petition is filed (and after a hearing, if one is requested), a judge will consider a variety of factors in making the decision on whether to allow you into the program (ORS 813.220). Those factors include:

- Whether diversion would benefit both you and the community;
- Whether you have made early efforts at seeking drug and/or alcohol treatment;
- Whether it is likely that you will be cooperative with the drug and/or alcohol screening agencies;
- Whether you are likely to follow the conditions of your diversion agreement;
- Whether your offense was in a motor vehicle and, if so, whether there was a person under 18 years of age and 3 years younger than you in the car;
- Whether you showed up at arraignment;
- Whether you have been charged with and/or convicted of another DUII since the time you filed the petition;
- Whether you have participated in another diversion or similar rehabilitation program since the time you filed the petition; and
- Whether you have been charged with or convicted of certain aggravated motor vehicle offenses since the time you filed the petition.

C. COMPLETING THE OREGON DUII DIVERSION AGREEMENT

Remember that even if the judge accepts you as a candidate for entry into a diversion program, you must still agree to and complete a series of conditions before your charges will be dismissed.

The conditions that will be included as a part of that agreement typically include at least the following:

- **Pay all costs, fines and fees** (generally ranging between \$1,650 and \$4,500).
- **Complete an alcohol and drug abuse assessment and evaluation as directed by the court;**
- **Complete the recommended treatment program** (if any);
- **Attend a victim impact panel;**
- **You must not consume ANY alcohol for a period of one year;**
- **You must install an ignition interlock device in your vehicle.** (DUII convictions as of January 1, 2012,)

Specific programs and/or courts may seek to have additional conditions imposed or alter these general rules.

Remember, you must completely comply with these conditions for a total of one (1) year after entering into the diversion agreement with the court. (ORS 813.230). Failure to comply may result in the revocation of your diversion agreement, whereby the court will enter a judgment of conviction for DUII and impose a sentence in accordance with that conviction.

D. EXTENSIONS ON TIMEFRAME FOR COMPLETING OREGON DUII DIVERSION

If you have made an honest effort at completing the terms of your diversion agreement but, for some good reason, cannot do so within the one (1) year timeframe, it may be possible to seek an extension of your term by filing another petition with the court. (ORS 813.225).

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