

SB 201 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

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Meeting Dates: 2/1, 2/2, 3/29

WHAT THE MEASURE DOES:

Provides that an individual is guilty of driving under influence of intoxicants if the individual has a .08 percent or higher blood alcohol level within two hours of driving. Allows individual to assert affirmative defense if individual consumed sufficient alcohol amount after driving to account for test results. Requires 21 days notice of affirmative defense. Defines "statutory counterpart" and specifies application. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Process for DUII breath test
- Recent Oregon Supreme Court decisions
- Similar laws in other states
- Concerns about potential unintended consequences of measure

EFFECT OF AMENDMENT:

-2 Provides that an individual is guilty of driving under the influence of intoxicants (DUII) if the individual has a .08 percent or higher blood alcohol level within two hours of driving. Clarifies that fine for DUII is enhanced if person has a .15 percent or higher blood alcohol level within two hours of driving. Requires prosecutor to prove individual did not drink between driving and breath or blood test. Clarifies that charge for DUII may be enhanced if person has been convicted of two or more DUIIs or similar offenses in other states and that manslaughter or assault charges involving a vehicle may be enhanced if person has been convicted of three or more DUIIs or similar offenses in other states. Declares emergency, effective on passage.

BACKGROUND:

Under ORS 813.010, prosecutors can prove that a person was driving under the influence of intoxicants (DUII) if they show that the person, at the time of driving, had a .08 percent or higher blood alcohol level, was under the influence of intoxicating liquor, cannabis, a controlled substance or an inhalant, or was under the influence of any combination thereof. Whether the person has the requisite blood alcohol level is determined by a breath or blood test, usually taken at a police station or medical facility. Depending on when and where the stop occurs, it may be several hours before the breath or blood test occurs. Separately, if an individual has had two previous DUII convictions in the previous 10 years, any subsequent conviction will be considered a felony. The two prior convictions could have occurred in Oregon or in a state with a "statutory counterpart" to Oregon's DUII laws.

Senate Bill 201 provides that an individual is guilty of driving under the influence of intoxicants if that person is found to have a .08 or higher percent blood alcohol level within two hours of driving and defines "statutory counterpart."