Support SB 217 – Keeping Oregonians Safe: Commonsense Statutory Counterpart Fix

Under Oregon law, a DUII is elevated to a felony if a defendant has been previously convicted of DUII or a "statutory counterpart" from another jurisdiction at least twice before in the last two years. Similarly, Oregon's laws protecting children from sexual abuse make a crime much more serious if the person has previously convicted of the crime, or a "statutory counterpart." While every state has laws prohibiting DUII or sexually abusing a child, these laws differ in their exact details. For example, in Washington and California, a breath test taken in a window of time after driving (2 hours in Washington, 3 in California) is sufficient to establish intoxication. In a series of recent decisions, the Oregon Supreme Court has interpreted the definition of "statutory counterpart" to require a close to exact match. This means that convictions from our two largest neighboring states may not be admissible in Oregon. In their rulings, the Court has noted that they are interpreting what they believe to be the legislative intent of the term "statutory counterpart." This interpretation has profound implications for the prosecution of DUII, child sex crimes, and other significant cases.

SB 217 clarifies the definition of "statutory counterpart" to allow these convictions, all of which were proven beyond a reasonable doubt, to be admissible in Oregon. The definition provides that a statutory counterpart is any statute which has the same use, role or characteristics as Oregon's. This is a long standing definition within Oregon's criminal code, and is well understood and applied by Oregon Judges. More importantly, it will allow convictions from neighboring states to count as they should when prosecuting significant criminal cases like felony sex crimes, strangulation, stalking, burglary, identify theft and DUII.

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