

## HB 2316 A STAFF MEASURE SUMMARY

### Joint Committee On Ways and Means

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**Meeting Dates:** 5/24

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#### **WHAT THE MEASURE DOES:**

Expands the definition of “intoxicant” to the Oregon Vehicle Code to include any drug, as defined by ORS 475.005, alone or in combination with intoxicating liquor, a controlled substance, an inhalant, cannabis, or psilocybin, that adversely affects a person’s mental or physical abilities to a noticeable degree.

Authorizes courts to impose a minimum fine of \$500 if a person is convicted of driving under the influence while riding a bicycle and a minimum fine of \$1,000 if a person has a blood alcohol percent of 0.15 percent or more as shown by chemical analysis of breath or blood while riding a bicycle or, within two hours after riding a bicycle without consuming alcohol in the intervening period.

Creates an affirmative defense while driving under the influence of intoxicants other than, intoxicating liquor, a controlled substance, an inhalant, cannabis, or psilocybin if the defendant obtained, consumed the recommended dose, and followed directions and warnings prescribed by a licensed health care professional or if the defendant obtained the substance without a prescription, consumed the recommended dose, and followed directions and warnings and experienced a reaction.

The measure is effective January 1, 2024; however, key provisions of the measure apply only to conduct on or after the effective date.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

No amendment.

##### **BACKGROUND:**

Currently, a person may be convicted of driving while under the influence of intoxicants on the basis of being under the influence of intoxicating liquor, cannabis, psilocybin, a controlled substance or an inhalant or a combination of the above. The statute does include intoxication by any drug other than those listed or categorized as a controlled substance under ORS 475.005, defined as a drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act.

A person may not be convicted of driving while under the influence of intoxicants (DUII) on the basis of being under the influence of a controlled substance or an inhalant unless the fact that the person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory instrument.

Currently, under ORS 813.011, a defendant with two convictions for DUII in 10 years will have any future DUIIs treated as a felony. However, persons convicted of a felony DUII and sentenced under a different statute, ORS 813.010(5), may have future DUII charges treated as misdemeanors, even if they have more than two prior DUII convictions because the statutory language in ORS 813.011 limits consideration of convictions under other statutory sections.

House Bill 2316 would amend multiple statutes related to the crime of DUII. It would expand the offense of DUII to include being under the influence of any impairing drug; remove requirement that impairment by controlled substance or an inhalant be pleaded in the accusatory instrument; and it would reconcile felony DUII statutes

governing repeat DUII offenders.

PRELIMINARY