

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Beyer, Kruse, Prozanski, Walker, Burdick
Nays:	0
Exc.:	0
Prepared By:	Darian Stanford, Counsel
Meeting Dates:	4/24, 4/30

WHAT THE MEASURE DOES: Establishes that certain information relating to test instruments is not discoverable or admissible in criminal trials.

ISSUES DISCUSSED:

- Nature of discovery requests in DUII trials

EFFECT OF COMMITTEE AMENDMENT: Narrows scope of provisions of original bill (fewer documents are not discoverable or admissible).

BACKGROUND: In driving under the influence of intoxicants (DUII) prosecutions, the state often relies on evidence gleaned from certain test instruments that measure the amount of alcohol within a person's breath and extrapolate from that the amount of alcohol in the person's blood (or "BAC" for blood alcohol content). Oregon recently switched to machines known as the "Intoxilyzer 8000," which replaced the previous "Intoxilyzer 5000." Blood and urine are typically extracted and analyzed through different processes and mechanisms.

In DUII prosecutions, defense attorneys will often request, as part of the discovery process, that the state turn over any and all information relating to the particular instrument that was used to test a particular defendant's BAC. Such information can include the crime lab's maintenance records for the machine.

SB 347 A clarifies that certain information relating to these test instruments is not discoverable or admissible. Specifically, this information includes: (1) the source code or other software for the machine, (2) schematics, trade secrets or other proprietary information regarding the test instrument, and (3) any documents or information relating to the test instrument that is not in the possession of the law enforcement agency administering the test.