

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 1 - 0

Yeas: Boquist, Dingfelder, Whitsett, Prozanski

Nays: Bonamici

Exc.: 0

Prepared By: Shannon Sivell, Counsel

Meeting Dates: 3/11, 5/28

WHAT THE MEASURE DOES: Increases penalty for refusing to take breath test by increasing period of time person is ineligible to receive a hardship permit. Requires person to be notified that if he or she refused breath test and had previous driving under the influence of intoxicants (DUII) or diversion within the preceding five years, he or she will be subject to extended waiting period prior to receiving hardship permit.

ISSUES DISCUSSED:

- Ignition interlock devices
- Recidivism
- Reducing number of people driving with suspended licenses

EFFECT OF COMMITTEE AMENDMENT: Requires person to be notified that if he or she refused breath test and had previous DUII or diversion within the preceding five years, or is currently in a diversion program, he or she will be subject to extended waiting period prior to receiving hardship permit.

BACKGROUND: HB 2238A is aimed at reducing the number of repeat DUII offenders who refuse to provide a breath test under the implied consent law. Under current law, if a person has a blood alcohol level of .08 percent or greater, or the person refuses to take a breath test during the course of a DUII investigation, he or she must wait a certain period of time before applying for a hardship permit. A person is subject to an increased waiting period under ORS 813.430 if he or she has a previous a DUII conviction or a license suspension under ORS 813.410 within the preceding five years or if the person was participating in a diversion program at the time of the refusal. For offenders subject to the increased waiting period, the current statute does not differentiate between people who refused the breath test and people who failed the test. Because breath tests can be a significant piece of evidence in any DUII trial, repeat offenders who refuse to provide a breath test have a greater chance of being acquitted than those who provide a breath sample and fail. By increasing the waiting period for those who refuse the test from one year to three years, this measure aims at reducing the number of repeat offenders who refuse the breath test.