

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	0
Prepared By:	Shannon Sivell, Counsel
Meeting Dates:	4/21

WHAT THE MEASURE DOES: Deletes the original bill and addresses the gap in the Implied Consent Law by adding evidentiary provisions to the statute that would make the admissibility of urine testing consistent with the statutes addressing blood and breath testing.

ISSUES DISCUSSED:

- Certification for Oregon State Crime Lab
- Provisions of the measure

EFFECT OF COMMITTEE AMENDMENT: Deletes the original bill and addresses the gap in the Implied Consent Law by adding evidentiary provisions to the statute that would make the admissibility of urine testing consistent with the statutes addressing blood and breath testing.

BACKGROUND: Under the Implied Consent Law, a person is deemed to have given consent to a blood, breath or urine test when, after being arrested for DUII, an officer believes that the person is under the influence of a controlled substance or an inhalant. The proposed amendments to ORS 813.131 contained in HB 3051A would clarify that urinalysis evidence obtained pursuant to ORS 813.131 is admissible in court when the testing is performed in a licensed or accredited lab.

Under current law there are provisions that determine the admissibility of breath and blood test results in DUII and DUII-related cases. However, there are not specific provisions dealing with the admission of urine tests which are a required component for drug recognition examinations given to drivers suspected of driving under the influence of controlled substances. This disparity was recently highlighted by the Oregon Court of Appeals in *State v. Tripathi*, 226 Or App 552, __ P3d __ (2009). In *Tripathi*, the court observed: “Unlike ORS 813.160, ORS 813.300, and ORS 813.322, which expressly create criteria for the admission of breath and blood test results, there is no analogous provision in the implied consent law for urine testing.”

HB 3051A would address this disparity by creating an evidentiary standard for admitting urine analysis evidence when it has been performed in a licensed or accredited lab. This change is consistent with the provisions that govern admissibility of breath and blood samples.