

**REVENUE:** No revenue impact

**FISCAL:** Minimal fiscal impact, no statement issued

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<b>Action:</b>	Do Pass the A-Engrossed Measure
<b>Vote:</b>	4 - 0 - 1
<b>Yeas:</b>	Bonamici, Boquist, Dingfelder, Prozanski
<b>Nays:</b>	0
<b>Exc.:</b>	Whitsett
<b>Prepared By:</b>	Shannon Sivell, Counsel
<b>Meeting Dates:</b>	5/15

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**WHAT THE MEASURE DOES:** Adds evidentiary provisions that make admissibility of urine testing consistent with statutes addressing blood and breath testing.

**ISSUES DISCUSSED:**

- Standard for admissibility of breath and blood tests
- Foundation requirements for admitting scientific evidence
- Defense challenges

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**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 driving while under the influence of intoxicants (DUI), an officer believes that the person is under the influence of a controlled substance or an inhalant. The changes to ORS 813.131 in HB 3051A clarify that urinalysis evidence obtained pursuant to ORS 813.131 is admissible in court if the testing is performed in a licensed or accredited laboratory.

Under current law there are provisions that determine the admissibility of breath and blood test results in DUI and DUI-related cases. However, there are not specific provisions dealing with the admissibility of urine tests that 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 addresses this disparity by creating an evidentiary standard for admission of 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.