

REVENUE: No revenue impact

FISCAL: No fiscal impact

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<b>Action:</b>	Do Pass and Be Placed on the Consent Calendar
<b>Vote:</b>	8 - 0 - 2
<b>Yeas:</b>	Cameron, Garrett, Krieger, Olson, Shields, Stiegler, Whisnant, Barker
<b>Nays:</b>	0
<b>Exc.:</b>	Barton, Smith J.
<b>Prepared By:</b>	Shannon Sivell, Counsel
<b>Meeting Dates:</b>	5/11

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**WHAT THE MEASURE DOES:** Repeals ORS 137.721(1). Clarifies that if person is convicted of possession of substantial quantity of controlled substance, or delivery to a minor, the sentence is not limited to presumptive 19-month sentence.

**ISSUES DISCUSSED:**

- Provisions of the measure

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

**BACKGROUND:** The 2008 Special Legislative Session referred SB 1087 to the voters in the November 2008 general election where it appeared on the ballot as Ballot Measure 57. It was related to sanctioning repeat property offenders. It also addressed the concerns of the law enforcement community over the inability to apply meaningful sanctions to those involved in the trafficking of significant quantities of heroin, cocaine, methamphetamine (meth) and ecstasy and the possibility of using these sanctions as leverage to obtain cooperation. It was also anticipated that Ballot Measure 57 would increase evidence-based treatment programs.

Section 6 of Ballot Measure 57 prohibited a court from imposing a sentence of optional probation or granting sentence disposition or duration downward for offenders manufacturing and delivering a controlled substance if the person had one or more prior convictions for manufacture or delivery. However, ORS 137.721(1) allows optional probation and downward departures contrary to section 6 of Ballot Measure 57. It is no longer operative because it was implicitly repealed by Ballot Measure 57. SB 389A explicitly repeals ORS 137.721.