

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 2425 **STATUS:** Original
SUBJECT: Modifies elements of felony driving while under the influence of intoxicants to include prior participation in diversion program.
GOVERNMENT UNIT AFFECTED: Department of Corrections, Oregon Judicial Department, and Public Defense Services Commission and Oregon Department of Transportation
PREPARED BY: Tim Walker
REVIEWED BY: Doug Wilson and John Borden
DATE: February 20, 2009

EXPENDITURES:	<u>2009-2011</u>	<u>2011-2013</u>
Department of Corrections (General Fund)	\$ 2,950,535	\$ 11,581,721
Public Defense Services Commission (General Fund)	\$ 55,200	\$ 73,600
Oregon Judicial Department (General Fund)	\$ 168,000	\$ 224,000
Total	\$ <u>3,173,735</u>	\$ <u>11,879,321</u>

EFFECTIVE DATE: January 1, 2010

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: This bill would modify the felony Driving Under the Influence of Intoxicants (DUII) law to include participation in diversion as a prior offense. Under current law, an offender could participate in diversion and upon conviction on three additional DUII's be charged with a felony DUII. Participation in diversion would not count towards the three convictions. This bill would count diversion so that an offender could participate in diversion and upon the second conviction of DUII, be charged with felony DUII.

According to information supplied by the Oregon Department of Transportation, Traffic Safety Division in the latest data available (2006), statewide there were 410 convictions for a third or subsequent DUII and 208 convictions for felony DUII. For this analysis it is assumed that there will be 200 convictions that would qualify as a felony conviction under this bill. This would lead to 52 additional prison beds in 2009-11 and 204 prison beds in 2011-13 and level off at 208 beds in 2013-15 at a cost of \$11.8 million.

The Public Defense Service Commission states that a misdemeanor DUII on average costs \$338 to defend and a felony DUII on average costs \$518. This would incur an additional \$184 per case. What is not known is how many cases would have to be filed go to trial to result in 200 convictions. The costs to defend the charges would be incurred regardless of whether the defendant was convicted or not.

The Oregon Judicial Department indicates that a felony trial would cost, on average, an additional \$560 more than a misdemeanor trial. For 200 convictions the additional court costs would be \$112,000 per year. What is not known is the total number of trials that will have to be undertaken to reach the 200 convictions. For this reason, these costs are most likely understated.

There is no fiscal impact on the Oregon Department of Transportation.