## 2009 Regular Legislative Session FISCAL ANALYSIS OF PROPOSED LEGISLATION

Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 2427 STATUS: Original

**SUBJECT:** Provides that a person commits the offense of refusal to take test for intoxicants if person refuses to submit a blood or urine sample.

GOVERNMENT UNIT AFFECTED: Oregon State Police, Oregon Department of Transportation and

Counties

**PREPARED BY:** Tim Walker

**REVIEWED BY:** Doug Wilson and Susan Jordan

**DATE:** February 23, 2009

2009-2011 2011-2013

## **EXPENDITURES:**

See Analysis.

**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 expand the crime of refusal to take a breath test to refusal to take a test for intoxicants by adding refusal to submit blood or urine sample. The bill also provides that all fines collected for the crime of refusal to take a test for intoxicants will be credited to the State Police Account to be used for the enforcement of driving while under the influence of intoxicants (DUII).

The current law did not anticipate using blood and urine samples to detect the presence of intoxicants, other than alcohol, in the system of a person arrested for DUII. An individual could refuse to submit a sample of blood or urine and not be subject to the same sanctions as an individual that refuses a breathalyzer test. Oregon State Police (OSP) reports that they wrote 462 citations in 2007 for refusal to take breath test and over 400 in 2008, although the numbers for 2008 are not complete. It is likely that by including blood and urine samples to the failure to submit law, additional citations will be written. In fiscal year 2007 OSP received \$52,394 in fine revenue from failure to submit. OSP does not anticipate a substantial increase in fine revenue from the provisions of this bill.

Under current law, only the fine revenue on citations written by OSP troopers is credited to the State Police Account. This bill would change the provision so that all fine revenue generated on failure to submit citations would be credited to the State Police Account, regardless of the law enforcement agency writing the citation. If the offender is cited into circuit court, then the fine revenue would be credited to the State Police Account. In 2006, according to the DUII Data Book published by the Oregon Department of Transportation, there were 25,091 total DUII offenses and during the same time there were 2,882 citations for failure to submit to breathe test. An offender could be cited into a municipal or justice court, in which case, the fine revenue would not be credited to the State Police Account, but would be credited to the local jurisdiction.

The Oregon Department of Transportation indicates that \$13,585 would need to be expended to make programming changes to the DMV reporting system to reflect the changes in this bill. It is important to note that ODOT analyzes all legislation that passes and develops a work plan to complete all the changes together in order to efficiently complete the necessary work. Therefore, while each bill is analyzed for changes as if it were the only change necessary, actual programming time could be reduced due to efficiencies. The Department will develop a work plan to address all computer changes required to conform Motor Vehicle systems to enacted legislation. The Department will then appear before the Emergency Board, if necessary, during the interim to request an expenditure limitation increase needed to address the required work.