

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass
Vote:	7 - 0 - 1
Yeas:	Barnhart, Berger, Freeman, Holvey, Wingard, Hunt, Olson
Nays:	-
Exc.:	Garrett
Prepared By:	Jim Stenbridge, Administrator
Meeting Dates:	6/24

WHAT THE MEASURE DOES: Clarifies driving under the influence (DUI) as category 6 felony with thirteen to thirty-month presumptive sentence. Allows state to reimburse counties for cost of incarcerating those charged with and convicted of third DUI. Directs counties to use existing reimbursement rate, which is used to reimburse counties for cost of inmates serving twelve months or less. Directs Department of Corrections (DOC) to make rules for counties to seek reimbursement. Requires reimbursements be made from moneys appropriated to DOC for that purpose. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Implementation of Ballot Measure 73 (2010)
- Impact on felony categories and sentences for convictions
- State prison terms vs. local jail terms
- Clarification of fiscal impact; fiscal impact of not enacting Senate Bill 395-B

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Under current law, ORS 813.010(5), a *fourth* DUI conviction is designated as a class C felony. Ballot Measure 73 (2010) also classifies a *third* DUI conviction as a class C felony and imposes a minimum mandatory sentence of 90 days.

The Criminal Justice Commission (CJC) is required by ORS 831.012 to treat all felony DUI convictions as category 6 crimes for sentencing purposes. Category 6 crimes carry a thirteen-to-thirty-month presumptive sentence. Senate Bill 395-B clarifies the sentencing contradiction by requiring CJC to treat only fourth DUI convictions as category 6 crimes for sentencing purposes. Permitting the CJC to distinguish between the two C felony DUIs allows the minimum mandatory sentence required by Measure 73 to be imposed for third convictions, and allows the thirteen-to-thirty-month presumptive sentence to be imposed for fourth convictions.

The existing reimbursement rate, the calculated rate DOC pays counties for persons serving sentences of twelve months or less, is \$92.63 per day for the 2011-2013 biennium.

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This summary has not been adopted or officially endorsed by action of the committee.