



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Director's Office

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DATE: February 3, 2012
TO: House Committee on Health Care
FROM: Amy Joyce, Legislative Liaison for DMV
RE: HB 4011 - Proof of Completion of DUII Treatment

INTRODUCTION

HB 4011 provides temporary authority for Driver and Motor Vehicle Services Division (DMV) to require those convicted of Driving Under the Influence of Intoxicants (DUII) to prove they have completed drug or alcohol treatment before DMV will reinstate the suspended driving privilege. The bill is needed because of ambiguous statutory authority for DMV's current administrative rule. The bill allows for exceptions, and sunsets the authority in 2014 allowing a DUII work group to consider long-term solutions.

DISCUSSION

When a person is convicted of DUII, the law requires that the person be evaluated for and receive alcohol or drug treatment in a program that is approved by the Department of Human Services (DHS). Another consequence of the conviction is driver license suspension. When an earlier version of the treatment provision became law in the 1980's, DMV adopted a rule that required the person to prove completion of treatment before DMV would reinstate the driving privilege.

Changes in the statute over time made DMV's authority for that rule questionable, so last year DMV proposed to repeal its administrative rule. Also, years of experience implementing this rule demonstrated flaws in the one-size-fits-all approach and concern whether DMV is the appropriate entity for determining compliance. The Co-Chairs of the House Health Care and Judiciary Committees asked the Department to delay the rule repeal until the Legislature had the opportunity to consider options. DMV suspended the rule repeal, and Rep. Thompson convened a work group to look at many facets of the DUII system, including this issue.

As a stop-gap measure, HB 4011 would give clear statutory authority to DMV to require proof of completion of DHS-approved alcohol or drug treatment as a condition to reinstate driving privileges. The bill also would allow DMV to make exceptions when the applicant shows good cause, based on criteria set in rule. Finally, the bill would sunset the authority on January 2, 2014. This acknowledges the need for the work group to consider the policy choices involved and other alternatives.

DMV has drafted a proposed administrative rule outlining the documents it will accept as proof of treatment completion, and a good cause standard to grant exceptions. Over many years of experience DMV has found rare instances in which it is not reasonable to require a specific document as proof. In some cases a person successfully completed treatment years ago but no longer has the certificate and a copy is not available because the provider is no longer in business. In some cases the sentencing judge ordered attendance at a specific treatment program but it was not DHS-approved. Occasionally a judge orders jail time in lieu of treatment and the person complies exactly with the judge's order but cannot supply a treatment certificate for driver license reinstatement. In some rare cases, the conviction was many years ago and DHS-approved treatment was not completed, yet the applicant reliably demonstrates years of sobriety. Without an exceptions process, such situations leave the DMV employees in the difficult role of explaining DHS treatment standards, a judge's order, etc.

DMV has provided the draft rule to DHS, the Judicial Department, and the Governor's Advisory Committee on DUII, and solicited feedback from them. The goal is to ensure the documentation and good cause exceptions are appropriate both for achieving the goal of encouraging offenders to complete treatment and for empowering DMV to occasionally accept alternatives to the completion certificate in specific situations.

DMV supports this piece of legislation that gives it clear statutory authority to continue an existing practice, allows us to grant exceptions in rare and appropriate situations, and sunsets the authority in expectation of a clear policy choice coming from the DUII work group.

CONCLUSION

HB 4011 would provide a temporary provision for DMV to continue requiring the vast majority of convicted DUII offenders to prove completion of treatment, while also allowing the work group the time needed to consider the best way to encourage offenders to address their problems with alcohol or drugs.