



Oregon

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DATE: February 4, 2013

TO: House Judiciary Committee

FROM: Amy Joyce, Legislative Liaison

SUBJECT: HB 2121, Proof of Treatment Completion after DUII Conviction

INTRODUCTION

Several bills before you today are products of an interim work group on Driving Under the Influence of Intoxicants (DUII). HB 2121 would provide courts the ability to instruct DMV (Driver and Motor Vehicle Services Division of the Department of Transportation) to suspend a person's driver license for failing to complete alcohol or drug treatment after a conviction for DUII.

DISCUSSION

The 2012 Legislature placed temporary authority on DMV to verify treatment completion after a DUII conviction. That authority ends January 2, 2014. HB 2121 allows the courts to be the gatekeeper on adequate completion of treatment.

For years DMV's administrative rules required proof of treatment completion before it would reinstate the driving privilege of a person convicted of DUII. This reinforced the law's requirement that a DUII offender complete treatment that meets the approval of Oregon Health Authority (OHA). In 2011 DMV, while attempting to amend its rule, discovered that the statutory authority for the rule was questionable. In addition, over years enforcing the rule DMV was encountering an increasing number of problematic cases. At least, DMV needed exceptions authority; but fundamentally the situation called for reanalyzing which entity was suited best for this gatekeeper role. Examples of these problematic cases include judges not ordering treatment, judges ordering treatment not on the list of OHA-approved providers, treatment completed out of state, offenses committed decades ago followed by years of verified sobriety, etc.

This two-fold problem—debatable legal authority for the rule and an evolving practical landscape that questioned DMV's role in the process—lead to HB 4011 in 2012. HB 4011 gave clear legal authority for DMV to require proof of treatment as a condition of driver license reinstatement, gave DMV authority to grant exceptions, but sunset the authority in 2014 so a permanent solution would be fashioned.

The interim DUII work group produced HB 2121, which allows courts to notify DMV to suspend driving privileges for those people who fail to comply with the treatment ordered by the court. Courts and DMV have a similar relationship involving failure to appear or to pay fines in traffic-related cases. In addition it gives the courts flexibility to determine if the offender's efforts are adequate.

CONCLUSION

This bill is one of several coming from an interim work group on DUII. HB 2121 continues to use suspension of the driver license as a tool to enforce treatment requirements. But it places that tool in the hand of the Court that issued the Order.