



Oregon

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Governor's Advisory Committee on DUII

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TO: House Judiciary Committee

FROM: Chuck Hayes
Chair, Governor's Advisory Committee on DUII

SUBJECT: Support of HB2114, HB2115, HB2117 and HB2121

As the Chair of the Governor's Advisory Committee (GAC) on DUII, I am providing the following written testimony in support of DUII House Bill package that includes HB2114, HB2115, HB2117, HB2121 and HB2125. Each bill is supported by the GAC on DUII and various stakeholders involved in the DUII process in Oregon.

HB2114

HB2114 provides that evidence of a test or step administered, or observation made by a police officer trained as a drug recognition expert (DRE) is admissible in a judicial or administrative proceeding if certain conditions are met. DRE's are officers specially trained to detect signs and symptoms of drug impairment using a systematic and standardized process. This process normally includes a of series 12 steps. However, due to various issues or circumstances sometimes beyond the control of the DRE, all 12 steps may not be able to be accomplished. However, the DRE is still able to form an opinion of the person's impairment and thus should be allowed to testify about his/her observations during the drug influence evaluation. HB2114 would help clarify when such evidence would be admissible and would allow the DRE to testify to his/her test observations.

HB2115

HB2115 expands the offense of driving under the influence of intoxicants in Oregon to include any drug that adversely affects the driver's physical or mental faculties to a noticeable or perceptible degree. Under current Oregon DUII statute (ORS 813.010) a driver can only be charged with DUII if they are under the influence of; intoxicating liquor, a controlled substance, inhalant or any combination of the three. It does not include a number of impairing non-controlled drugs and some impairing over-the-counter (OTC) substances. Currently 45 states plus the District of Columbia include "any drug" or "any impairing substance" in their DUII statutes. Oregon is one of the five states that do not include "any drug" or "any impairing substance".

Such a change is desperately needed to help deal with the new drugs, both licit and illicit which have impairing effects when abused and involved in vehicle operation. A good example of this is the ever-changing and constantly evolving synthetic drugs such as the synthetic cannabinoids. These "fake marijuana" substances have grown from about 10-15 to approximately 400 substances today. Most of these highly impairing substances fall under the radar as a controlled substance and are highly

impairing and dangerous when used by people operating vehicles on our roadways. When these drivers are detected and found to be impaired and arrested for DUII, they have an excellent chance of avoiding prosecution because the impairing substance may not be detected by forensic analysis and also may not be included as a “controlled substance” under current Oregon law.

The abuse and misuse of prescription drugs and other impairing substances is a growing problem in Oregon and the nation. According to a National Survey on Drug Use and Health (NSDUH) report released January 8, 2013, Oregon is the highest state in the country for non-medical use of prescription pain relievers for persons 12 years old and over. Oregon is also one of the highest abusers of marijuana and synthetic marijuana.

Since the inception of the Oregon Drug Recognition Expert (DRE) program in 1995, there have been an increasing number of impaired driving incidents involving non-controlled drugs and other impairing substances. In the majority of these cases, the impaired driver could not be prosecuted for DUII because the impairing substance detected through toxicology testing did not constitute a controlled substance as currently required in the Oregon DUII statute.

Revising the Oregon definition of intoxicant to include any drug that adversely affects the person’s physical or mental faculties to a noticeable or perceptible degree would help give law enforcement and prosecutors the tools necessary to deal with drivers who “over-medicate” themselves or intentionally abuse various impairing substances and drive in a dangerous condition on our roadways. It will also assist in educating the public about the numerous serious health conditions these and many other drugs cause.

HB2115 does not advocate the non-use of prescription drugs or over-the-counter substances. As with alcohol and other controlled prescription drugs, we are advocating responsible use. It also does not require the Oregon State Police Crime Laboratory to do any additional testing other than what they do now. The Crime Lab currently tests for and reports the most commonly encountered drugs and over-the-counter substances in DUII cases and that procedure would not change. In addition it will not create an increased liability to physicians, pharmacists, or other authorized dispensers of prescription drugs or over-the-counter substances. And lastly, it does not change the current procedures for arresting and testing a suspected impaired driver. Officers would still be required to establish probable cause to make the traffic stop and the impaired driving arrest.

HB2117

HB2117 extends the suspension of driving privileges beyond the end of the suspension or revocation period if the person fails to submit proof of installation or maintain installation of a required ignition interlock device (IID). It will also increase the fees for screening interviews and diagnostic assessments and would require the provider of an IID to give notice of the person’s interview or assessment under certain circumstances.

HB2121

HB2121 authorizes the court to issue notice to the Oregon Department of Transportation if the defendant is convicted of DUII and fails to comply with the court ordered treatment. The GAC on DUII supports the idea that court ordered treatment is a very important part of trying to ensure that a person convicted of DUII does not re-offend. This bill would help in the process of identifying those people who do not follow through with the treatment ordered by the courts.

Summary

In summary, the Governor's Advisory Committee on DUII urges your support of each of the DUII bills listed above. Our committee believes these bills are critical steps needed to help reduce impaired driving incidents in Oregon, make our roadways safer, and also assist in improving the overall health and wellbeing of our citizens.

Ceh
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