

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:**

Action:**Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Jeff Rhoades, Counsel**Meeting Dates:** 2/18

WHAT THE MEASURE DOES: Modifies mandatory minimum term of incarceration for person convicted of felony driving under the influence of intoxicants (DUII). Authorizes court suspension of mandatory 90 days incarceration if defendant participating in treatment court and required to wear continuous alcohol monitoring device.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

BACKGROUND: In 2010, Measure 73 codified new provisions in ORS 813.011 pertaining to felony DUII. In addition to requiring less predicate convictions, Measure 73 also prescribed a mandatory 90 day jail term for a third DUII conviction. This mandatory term has caused some consternation in drug and alcohol treatment courts. Specifically, treatment courts have noted that such incarceration often causes defendants to lose their jobs. Without income, defendants have a difficult time paying for treatment and continuous alcohol monitoring. Proponents of the mandatory term of incarceration argue that the 90 day period allows defendants to “dry out” prior to beginning treatment, in addition to providing a deterrent effect.

SB 356 would allow courts to suspend the mandatory term of incarceration if certain conditions are met. In particular, it would require that defendant both be participating in a drug court program and be wearing a continuous alcohol monitoring device for a period of no less than 90 days.