

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 to suspend mandatory 90 day incarceration if defendant participates in treatment court, wears continuous alcohol monitoring device, and meets eligibility criteria.

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 fewer predicate convictions, Measure 73 also prescribed a mandatory 90 day jail term for a third DUII conviction. This mandatory term has been controversial in some 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 357 allows 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. Before defendant is permitted to wear a continuous alcohol monitoring device, SB 357 requires drug court programs to establish eligibility criteria for participating defendants, set standards for continuous alcohol monitoring and establish procedures for data collection.