

**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:** 3/12

**WHAT THE MEASURE DOES:** Requires provider of ignition interlock device (IID) to notify court that required device of negative report downloaded. Defines negative report. Allows court to require installation of IID with camera or similar technology if court does not terminate diversion following show cause hearing on negative report. Restructures provisions concerning license suspension on failure to install IID, fee waiver and deferment

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

**BACKGROUND:** ORS 813.602 currently requires that all persons participating in a DUII diversion install an IID to lawfully drive a motor vehicle. Failure to comply with this requirement constitutes a Class A traffic violation. Courts have the power to exempt a person from this requirement under a medical exception. The rules and guidelines for such an exemption are promulgated by the Department of Transportation.

Additionally, ORS 813.602 allows for the department to defer or waive all or part of a defendant's responsibility to pay for the cost of IID lease, installation and maintenance. The rules for such a deferment or waiver are set by the department. Finally, ORS 813.602 sets out the penalty for failing to submit proof of IID installation to the department. Should an individual fail to do so, the department shall continue the suspension for: 1) one year after the ending date of the suspension resulting from the first DUII conviction; 2) two years after the ending date of the suspension resulting from a second or subsequent conviction; or 3) five years after the ending date of the longest running suspension or revocation resulting from a DUII conviction.

Senate Bill 396 adds provisions to the IID statute regarding notice to the court upon download of a negative report by the IID provider. A negative report is defined as "a report of tampering with an [IID], unauthorized removal of the [IID], lockouts or test violations recorded by the [IID]." As the law is currently drafted, ORS 813.600 provides that the Department of Transportation shall establish a program for the use of IID devices. The law is silent on negative reports.

Senate Bill 396 provides that the installer of the IID shall notify the court of any negative report. Notice must be given within seven business days of receipt of the negative report. Additionally Senate Bill 396 provides that a court may require the installation of an IID with a camera or similar technology if the court does not terminate diversion following a negative report. This provision is largely moot, due to rules recently promulgated by the department which require such IIDs in all cases. Lastly, Senate Bill 396 restructures laws concerning license suspension on failure to install an IID, fee waiver and deferment without making substantive changes.

3/11/2015 9:00:00 AM \*

***This summary has not been adopted or officially endorsed by action of the committee.***