



Oregon

Kate Brown, Governor

Department of Transportation

Director's Office

355 Capitol St. NE, MS 11

Salem, OR 97301

DATE: March 12, 2015

TO: Senate Committee on Judiciary

FROM: Amy Joyce, Legislative Liaison

SUBJECT: SB 396, negative report on use of ignition interlock device during DUII Diversion

INTRODUCTION

The bill requires interlock providers to report certain events involving the device when a DUII offender is in a diversion agreement. The bill allows a court to order the ignition interlock to include a camera if the offender asserts someone else caused a negative report. A camera requirement for all interlock devices is already set to go into effect this year.

DISCUSSION

Current law requires DUII offenders under a diversion agreement to install an ignition interlock device, or IID. (The law contains minor exceptions for medical and employment purposes.) If an offender receives a negative report, and a show cause hearing does not result in termination of the diversion agreement, the bill would allow the court to order the IID to include a camera to identify the person using the device.

Oregon law requires DMV to set the standards for ignition interlock devices. DMV has already adopted administrative rules, going into effect in June, which require IIDs to include a camera. The rule meets the statutory charge to require devices that have the fewest opportunities to be bypassed, give evidence if tampering is attempted, and are difficult to circumvent, among others. DMV heard concerns expressed during the Rule Advisory Committee meetings, and during the comment period, that offenders were testifying at show cause hearings they were not the one who tried to start the vehicle and had the negative report. The committee heard there are situations where some district attorneys no longer bring the cases because the outcome is a foregone conclusion.

DMV adopted the rule including cameras to achieve the goals required in statute, and recognizing the benefit to both the prosecution and the defense. For those offenders who falsely claim "it was someone else," cameras can provide evidence to refute that claim. For offenders whose negative report was the fault of another person, the camera would provide clear evidence to prevent the DA from filing papers, let alone going to court. And to the benefit of the public, the presence of the camera may act as a deterrent.

Because this rule goes into effect in a few months, the section on cameras may be deemed moot and could be removed. In the alternative, the legislature could make a different policy choice on the use of cameras in which case the department would reevaluate its rule.

SUMMARY

An administrative rule set to become effective in June will require cameras for all interlock devices. The portion of the bill that allows cameras to be ordered in a few limited cases may be unnecessary. In the alternative, if the policy of the state of Oregon is expressed in this bill as drafted, the department would reevaluate its rule.