



**To: Members of the House Judiciary Committee**

**From: Robert Hayes**  
Oregon Association Chiefs of Police

**Date: April 1, 2015**

**Re: Testimony in Favor of HB 3170**

Chair Barker and members of the committee. My name is Robert Hayes and I am employed as a Patrol Sergeant with the Albany Police Department and I am here today on behalf of the Oregon Association Chiefs of Police to speak in favor of HB 3170. I am a certified Drug Recognition Expert and a Drug Recognition Expert Instructor. I am also a Crash Reconstructionist and was certified as a Crash Reconstructionist in 2005.

In my 23 years as a police officer I have conducted numerous investigations in regards to motor vehicle crashes and impaired driving. I also teach part time at the Department of Public Safety Standards and Training (DPSST). The classes I instruct are related to Impaired Driving and Crash Investigation. I am also the Chair for the State of Oregon, DUII Multi-Disciplinary Training Task Force. This Task Force provides training to all disciplines throughout the state in regards to Impaired Driving. I am here today, in support of House Bill 3170 which would expand administrative license suspensions and impose a fine for refusing to provide a blood test in DUIIs involving controlled substances.

For a typical DUII investigation, a police officer will gather evidence of impairment in several forms including visual observations of impairment, performance on field sobriety tests, and responses to interview questions. During that investigation, an officer will decide if there is probable cause to arrest the person for DUII. After an arrest, the person is asked to provide a breath sample under the Implied Consent Laws to determine if there is alcohol in the person's system. In a situation where a person's impairment is not attributed to alcohol and controlled substances are suspected, the officer will ask the person to participate in a drug evaluation conducted by a drug recognition expert. In addition, the person will be asked to provide a urine sample. If the person refuses to provide a urine sample when an officer believes the person is under the influence of controlled substances, a fine may be imposed and a license suspension will be given under the Implied Consent Laws.

Historically, Oregon has used urine as the means to test for the presence of controlled substances. Urine testing is problematic for the fact that it generally does not provide evidence that the person is actively impaired by a controlled substance rather, that the substance has been taken some time in the past. If a person ultimately refuses to do field sobriety tests and the drug recognition evaluation, the evidence of impairment rests solely on the officer's observations as the presence of the controlled substance in the urine has very limited value. In addition, hospitals are reluctant to obtain urine pursuant to a search warrant given the manner in which it is obtained making urine ineffective as evidence of impairment. On the other hand,

the presence of a controlled substance in the blood is evidence of the fact that the substance is active in the person's system and therefore is type of evidence a judge or jury is looking for when determining if a person is driving impaired.

There is an urgent need in Oregon to begin to routinely test for controlled substances in blood and that is due to the recent passage of recreational marijuana. Both Colorado and Washington have seen a significant increase in marijuana related DUIIs since the legalization of recreational marijuana. In the City of Denver alone, DUIIs involving marijuana doubled from 2013-2014. There is little doubt that Oregon will also see an increase in marijuana related DUIIs. Already in Oregon, marijuana accounts for the number one drug found in urine toxicology samples analyzed by the Oregon State Police (OSP) crime lab. For almost a 2 year time period, from January 2012 to November 2013, the OSP crime lab tested 4645 toxicology samples. Marijuana alone or in combination with another substance was found in 2321 samples which accounted for almost half the analyzed samples. In addition, for the last 4 years, marijuana alone or in combination with other drugs or alcohol was the substance involved in approximately half of all drug recognition expert evaluations of drug impaired drivers. With the passage of recreational marijuana these numbers will only increase.

Washington has already seen tragic fatalities involving marijuana. Most recently a 17 year old admitted to smoking marijuana at a party 1 hour before he crashed his car killing three of his teenage friends.

In closing, it is crucial for the legislature to provide the state crime lab with the resources to routinely test for controlled substances in blood. The passage of House Bill 3170 will impose a fine and a license suspension, to be consistent with breath and urine, for those who refuse to provide a blood sample where impairment is caused by a controlled substance. These sanctions will serve as a deterrent to those who are considering whether to drive impaired just as these laws have successfully been a deterrent for alcohol related DUIIs. The safety of the citizens of Oregon young and old depend on these tools in the coming years.

The DUII Multi-Disciplinary Training Task Force and the Oregon Association of Chiefs of Police ask for this committee to pass House Bill 3170.