

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: May have revenue impact, statement not yet issued**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; 4/9; 4/20

WHAT THE MEASURE DOES: Increases fees for driving under the influence of intoxicants (DUI) diagnostic assessment and screening interview from \$150 to \$275.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed -1 amendment replaces bill. Defines “negative report” and allows Department of Transportation to further define “test violations” by rule. States that when defendant is participating in DUI diversion, provider who installed IID must notify court or court’s designee and district attorney or city prosecutor of negative report within seven business days. States that negative report notification must be in format prescribed by Department of Transportation. Provides that person may not have IID device removed unless they demonstrate ninety days without negative report. Person participating in diversion, however, may petition court for removal of IID after six consecutive months without negative report. Provides that court or agency may not charge defendant additional fee to pay costs incurred by agency or organization in carrying out their duties.

Proposed -2 amendment mirrors -1 amendment, but allows department to remove ignition interlock device requirement from person’s driving record as soon as practicable after receiving certificate.

BACKGROUND: ORS 813.602 currently requires that all persons participating in a DUI 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 requires all persons convicted of DUI to install an IID device. The required period for the device is dependent upon how many DUI convictions an individual has.

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 DUI 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 DUI conviction.

Senate Bill 397 and its amendment are the product of the Ignition Interlock Device workgroup. There are a number of concepts included, all aimed at streamlining the IID process for defendants, the court and the prosecution. The amendment defines “negative report” and allows the Department of Transportation to further define “test violations” by rule. They require that, when a defendant is participating in DUI diversion, the provider who installed the IID notify the

4/17/2015 9:31:00 AM *

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

court or court's designee, and the district attorney or city prosecutor of the negative report within seven business days. The negative report notification must be in a format prescribed by the Department of Transportation. The amendment additionally provides that a person may not have their IID device removed unless they demonstrate ninety days without a negative report. A person participating in diversion, however, may petition the court for removal of the IID after six consecutive months without a negative report. In making the decision, the court will consider the nature of the underlying crime, the blood alcohol content of the defendant at the time of the arrest and any other relevant factors. Lastly, the amendment provides that a court or agency may not charge a defendant an additional fee to pay costs incurred by the agency or organization in carrying out their duties.