



Oregon

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Governor's Advisory Committee on DUII

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TO: House Judiciary Committee

FROM: Chuck Hayes, Chairman
Governor's Advisory Committee on DUII

SUBJECT: Testimony for SB 397-A

Introduction:

The Governor's Advisory Committee on DUII (GAC-DUII) previously supported SB 397 in its original form. However, based on the amendments adopted by the Senate Judiciary Committee, the GAC-DUII is remaining neutral on this current version, recognizing there are now both significant improvements and disadvantages. It is the goal of the GAC-DUII to speak to the strengths and weaknesses of this bill in hopes of guiding any amendments that may be considered by the House Judiciary Committee.

Strengths:

SB397-A both fixes and improves several components of Oregon's Ignition Interlock Device (IID) system. Many of these changes have been proposed in legislation recently and SB 397 was chosen as the vehicle to move these proposals forward. Those improvements include:

- 1. Eliminating the IID wait-out loophole:** A convicted DUII offender, or a DUII offender that has entered into a diversion agreement with the courts, can simply wait out a suspension period and not reestablish driving privileges, which would otherwise require the installation and use of an IID. When the suspension is up, the DUII offender can regain full driving privileges without ever having installed or used an IID to re-learn, practice and demonstrate safe and responsible driving habits as intended. The offender avoids a proven tool to prevent recidivism and support treatment and recovery, and public safety is compromised every time they get behind the wheel. SB 397-A extends the suspension until that IID requirement has been met.
- 2. Requiring 90 violation-free days before an IID requirement can be rescinded:** This concept originally started as SB 512, which required six months violation-free to be able to rescind the IID order at the end of the period required. Oregon's current IID system, while well-intentioned, has little accountability and oversight, thanks to disjointed reporting and unclear responsibilities. Violations on IID's are often unreported and when they are, those reports can sit for months without action, if any action at all. SB 397-A now requires an offender to show they have been violation-free for the last 90 days of their requirement, demonstrating they are capable of safe, responsible and sober driving.

- 3. Requiring IID violation reports to be sent to the Courts, District Attorney and ADES:** Currently, IID violation reports are sporadic and without any clear direction on to which entity should receive them for appropriate action or sanction, if an offender is under the supervision of the court for DUII. Sometimes, the reports are received months after the violation occurs, eliminating the chance to intervene and guide the efforts of recovery if the offender is participating in a Diversion Agreement. An IID is one of the most effective ways to monitor the success of treatment and recidivism, but if reports are not sent and received in a regular and structured way, it does little good for both the offender and public safety at large. SB 397-A fixes that reporting structure by ensuring that timely reports will go directly to the entities both responsible and able to address violations.

Weaknesses:

SB 397-A makes some modifications to existing DUII laws that will prove to be problematic if not addressed. The GAC-DUII has the following concerns:

- 1. Eliminating the ADES fee increase and capping the fee at \$150:** The original intent of SB 397 was to standardize the DUII statutes and to increase the fee for the ADES, a key position in the DUII continuum. The ADES evaluates every impaired driver and assesses their need for either substance abuse treatment or education. ADES's are being continually asked to do more work with fewer resources, and ADES's serve as the critical liaison between the courts, the offender and the treatment/education programs to monitor compliance. This fee is currently \$150 and has remained unchanged for the last 11 years, while operating expenses and other costs have continued to rise. A new fee level was proposed at \$275. SB 397-A removed the proposed fee and went the extra step to say that a court could not, at their discretion, pay the ADES additional monies to cover the cost of their work, essentially capping their ability to recover costs at 2004 wage levels.
- 2. Allowing a DUII offender to petition for a removal of an IID after six months of compliance with Diversion:** SB 397-A permits a DUII offender, after six months of no negative IID reports and compliance with all diversion requirements, to petition the court for a removal of the IID device. The GAC-DUII understands the value of incentivizing sober and responsible behavior, especially within the structure of a Diversion Agreement. However, the IID is one of the best tools available to monitor the success of treatment as directly related to the crime that put the offender there in the first place. The most vulnerable time for relapse for an offender is after completing a six-month treatment course when they are no longer doing random urine analysis tests, but still under their Diversion Agreement. If an offender gets the IID removed after only six months, the chance of missing a relapse greatly increases. Keeping an offender on an IID post-treatment is critical to identify relapse and take appropriate steps to help support a full recovery and prevent recidivism when no tools will be available.

Summary:

The Governor's Advisory Committee on DUII thanks the House Judiciary Committee for their consideration of both the strengths and weaknesses of SB 397-A. The GAC-DUII appreciates the time and effort that has been put into DUII legislation this session and looks forward to working with committee members during the interim to continue improvements to our DUII system by strengthening all areas – enforcement, treatment and prevention – of this all-too-common crime in Oregon.

