

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: SB 397 A
CARRIER: Sen. Thatcher

Fiscal: Has minimal fiscal impact
Revenue: Has minimal revenue impact

Action Date: 04/21/15

Action: Do Pass With Amendments And Requesting Subsequent Referral To Finance And Revenue Be Rescinded. (Printed A-Eng.)

Meeting Dates: 02/18, 04/09, 04/21

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Establishes that when defendant participating in driving under the influence of intoxicants (DUII) diversion, provider who installed ignition interlock device (IID) must notify court or court's designee and district attorney or city prosecutor of negative report within seven business days. Defines "negative report" and allows Department of Transportation to further define "test violations" by rule. Requires that negative report notification must be in format prescribed by Department of Transportation. Provides that people may not have IID device removed unless they demonstrate ninety days without negative report. Allows person participating in diversion to 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 cost incurred by agency or organization in carrying out their duties. Allows department to remove ignition interlock device requirement from person's driving record as soon as practicable after receiving certificate memorialized ninety days without negative report.

ISSUES DISCUSSED:

- The Department of Transportation's antiquated computer system
- Problems with Oregon's current IID process
- New rules promulgated by the Department of Transportation regarding fuel cell IIDs
- Formation of the IID workgroup
- Oregon's Alcohol and Drug Evaluation and Screening (ADES) fees

EFFECT OF COMMITTEE AMENDMENT:

Replaces measure.

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 requires all persons convicted of DUII to install an IID device. The required period for the device is dependent upon the person's number of DUII convictions.

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 continues 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 397 A is 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 bill defines “negative report” and allows the Department of Transportation to further define “test violations” by rule. It requires that, when a defendant is participating in DUII diversion, the provider who installed the IID notify the court or court’s designee, and the district attorney or city prosecutor of the negative report within seven business days. Currently negative reports are contained within the entire packet of downloaded information from the device, which records every blow into the machine. Such packets are extremely difficult for the supervising court and treatment agency to decipher. Senate Bill 397 A aims to correct this issue by introducing a more uniform and accessible report. Under the bill, the negative report notification must be in a format prescribed by the Department of Transportation.

The bill additionally provides that a person may not have their IID removed until they demonstrate ninety days without a negative report. This requirement applies regardless of whether the person is a diversion participant or has been convicted of DUII. The department is permitted to remove the IID requirement from a person’s license as soon as practicable, in order to allow for their more antiquated computer system to process the data. 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 bill 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.