



# Oregon

Kate Brown, Governor

## Governor's Advisory Committee on DUII

Transportation Safety Division, MS #3

4040 Fairview Industrial Drive SE

Salem, OR 97302-1142

Phone: (503) 986-4190

Fax: (503) 986-3143

**DATE:** February 26, 2017

**TO:** House Judiciary Committee

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

**SUBJECT: Support for HB 2614**

Chair Barker and Members of the House Judiciary Committee:

I am providing the following written testimony in support of House Bill 2614. This bill changes the law in two ways. The first change is to amend the DUII implied consent statutes to bring blood testing in line with breath and urine testing. The second change allows the state to comment in trial on a person's refusal to do a drug recognition evaluation when the person is suspected of driving under the influence of drugs just as the state can now comment on other types of refusals such as refusing to do field sobriety tests.

HB 2614 would address a long-time disparity in Oregon's Implied Consent statutory language by equalizing the administrative penalties for refusing to provide a blood sample in the investigation of a DUII crime with the same penalties for refusing to provide a breath or urine sample. The passage of HB 2614 does not create a separate criminal sanction for refusing to provide a blood sample; rather it imposes the same non-criminal, administrative sanctions as when someone refuses breath and urine testing when arrested for DUII.

The GAC on DUII also supports the provision in HB 2614 which makes the refusal to complete a drug recognition evaluation by a driver arrested for DUII and believed to be under the influence of drugs, admissible in court. In these cases the person will have been arrested for DUII and a breath test will have revealed that the blood alcohol level obtained is inconsistent with the impairment observed. In these cases, Drug Recognition Expert officers are trained that the next step is to ask the person to consent to a drug recognition evaluation. This bill will allow the state to comment on a person's refusal to submit to the evaluation. This change will create consistency with the state's ability to already comment on a person's refusal to submit to field sobriety tests or breath tests.

The international Drug Evaluation and Classification Program (also referred to as the Drug Recognition Expert program) is used nationwide and in several countries to address drug-impaired driving. Oregon has been successfully deploying Drug Recognition Experts (DREs) since 1995 and has over 200 such officers statewide. Officers must apply to become a DRE, meet minimum qualifications, and must be selected to go through a comprehensive training program.

DREs are also trained to consider if the impairment is due to an injury, illness, or other medical complication, or is in fact drug-related. If the impairment is determined to be drug related, the DRE determines which drug category or combination of categories is the source of the impairment. Finally, the person is asked to provide a toxicological sample to corroborate the DREs determination.

The Drug Recognition Expert program has grown tremendously since its inception due to the increase in incidents of drug-impaired drivers. With the rise in drug impaired drivers nationwide, there is a push to increase the number of DRE's due to the fact that the DRE evaluation is one of the best tools to prove or disprove impairment by drugs. Without the evaluation, similarly without field sobriety tests or a breath test in alcohol cases, the state is limited in what evidence can be presented in trial. This bill will allow the judge or jury to consider a refusal to do a DRE evaluation and give it whatever weight the trier of fact sees fit when rendering a verdict.

In summary, the Governor's Advisory Committee on DUII urges your support of HB 2614.

Sincerely,

Chuck Hayes  
Chair, GAC on DUII