



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

**From: Sgt. Robert Hayes, Albany Police Department**  
On behalf of the Oregon Association Chiefs of Police

**Date:** April 13, 2017

**Re: Support for HB 2614-1:**  
Driving Under the Influence of Intoxicants

Chair Barker and Members of the Judiciary Committee. My name is Robert Hayes, I am a Sergeant with the Albany Police Department and this letter is on behalf of the Oregon Association Chiefs of Police to support the passage of HB 2614. As background, I am a certified Drug Recognition Expert and a Drug Recognition Expert Instructor. I am also a Crash Reconstructionist. In my 25 years as a police officer I have conducted numerous investigations in regards to motor vehicle crashes. I teach part time at the Department of Public 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.

In regards to a person failure to submit or refusing a Drug Evaluation by a Drug Recognition Expert. This is the same as if the person refuses or fails to submit to field sobriety tests, breath tests, and urine tests. Just as with a refusal to do field sobriety tests, the state would only be able to comment on a person's refusal to do the portions of the DRE evaluation that do not require the person to say anything. By treating these refusals the same way we will have consistency within our investigations. Also, there is public policy interest to encourage people to participate in a DUII investigation when an officer believes they are under the influence of drugs and alcohol. This is the premise behind the state being able to comment on a person's refusal to submit to field sobriety tests, breath tests and urine tests when asked.

Another question that has been asked in regards to this bill is the drivers Miranda Rights. It is important to note that part of the DRE twelve step process is to confirm that the arresting officer has read the suspect their rights. If for some extreme reason this has not happened the DRE will notify the driver of their Miranda Rights and not proceed with any part of the evaluation until this has occurred.

A drug evaluation is a key part of the DUI investigation for controlled substance and the combination of alcohol and controlled substance. We not only identify impairment but we also see if the person is not impaired or may be having a medical condition or episode. Last year I terminated a drug evaluation when I found the person had an abnormally high blood pressure and pulse rate. She was transported to the hospital and treated for her medical needs. Had she not had police contact she may have made it home and suffered a heart attack. Another case is a State Trooper terminated his evaluation after spending a short time with the driver. That Trooper was later contacted by the driver's wife and told that he had a brain tumor and the discovery of that tumor was because the Trooper sent the individual to the hospital.

The DRE program is supported by a number of different groups because it works. In 1992 the ACLU wrote an article in regards to alternatives to urinalysis drug testing. In that article they referred to the DRE program stating, "The validation testing of the product supports the inference that a person who fail the nystagmus test or pupillary reaction test is probably "under the influence". The Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and the Los Angeles Police Department (LAPD) conducted controlled and field tests of the DRE protocol and found it was able to detect drivers impaired by drugs and alcohol with 94% accuracy. Blood sample were taken from those suspected of impairment to confirm accuracy of the call.

DRE evaluations work. The effects of multiple drugs or combinations of drugs can sometimes mask the physiological signs of drug use, and the experience and training of a DRE can be of help in identifying someone who is impaired by drugs or show that the person is not impaired. Just as field sobriety tests are a tool to determine impairment, the DRE evaluation is the tool that law enforcement uses to both subjectively and objectively determine if there is impairment. Failure to do this evaluation should be commented just as failure to do field sobriety test, breath tests and urine tests.

Thank you and I am glad to answer questions