



# Oregon

Kate Brown, Governor

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**DATE:** February 22, 2017

**TO:** House Committee on Judiciary

**FROM:** Troy Costales, Transportation Safety Division Administrator

**SUBJECT:** HB 2638, ignition interlock oversight

## INTRODUCTION

House Bill 2638 increases the effectiveness of the current law requiring a DUII offender to install an ignition interlock device, by adding oversight of to the providers of those devices. The bill requires the Department of Transportation to establish a new program to oversee vendors of the devices, make it self-funding, and then turn the program over to the Oregon State Police.

## BACKGROUND

Ignition interlock devices (IID's) prevent a motor vehicle from starting if the person attempting to operate the vehicle has blood alcohol content exceeding a very low level. They are used throughout the country as one tool to reduce drunk driving. Oregon has used IID's as an option for convicted DUII offenders since 1987.

In 2011 the legislature mandated the use of IIDs for those entering DUII diversion agreements. Over the last 20 years various pieces of responsibility involving the IID system have been given to several state agencies and other entities. Today there are significant gaps in the oversight of the equipment, vendors and installers of the devices.

The bill's overall goal is that the devices being used by offenders, and relied upon by courts, treatment providers, and society at large, will be more effective at reducing impaired driving and improving addiction treatment. Recent changes in law and rule have made small improvements. Last session the legislature closed a loophole that had allowed offenders to simply wait out the IID requirement. Also, the department amended its rules governing the technology of the device itself, requiring more accurate technology as well as photographic capability to document who is using the device in attempting to start the vehicle. The oversight of IID vendors is a missing link in assuring the effectiveness of the IID mandate.

## DISCUSSION

The bill impacts ODOT in two distinct ways. The primary impact is the creation of oversight authority for the vendors and installers of the devices. The bill puts that regulatory responsibility on ODOT; the Transportation Safety Division will house the program.

The department will focus its efforts immediately on the standards and process for certifying service centers—the businesses (such as vendor-owned sites, auto dealers, vehicle accessory shops) where these devices are installed. This will constitute a major administrative rule-writing project with significant stakeholder involvement. Though not mentioned in the bill, the

department will shift oversight of the devices themselves from DMV to Transportation Safety Division, to achieve the efficiency of having the entire program under one division.

The department will need three FTE for two biennia, at which point the program, by the terms of the bill, transfers to the Oregon State Police (O.S.P.). The position needs include: gathering of information and stakeholders to develop the administrative rules around the certification and oversight; financial analysis to assist in drafting a separate fee rule; procuring software; dealing with the existing backlog of complaints concerning IID vendors; plan and coordinate the communication for reporting IID use and violation reports among all the entities involved in the IID system; field work checking compliance on equipment, vendors and installers; deal with offender and vendor complaints; work with law enforcement concerning sanctions; administrative duties tracking case work and financial issues for the compliance officer.

ODOT will have two major rules to create in 2017-19 (certification processes and fees for manufacturers and for installers). Both would require significant Department of Justice review. We will work with our Washington state partners to learn from their experience, and for specific IID based training.

The department suggests that some amendments would be appropriate. First, while the aggressive time line to bring regulation to bear is understandable, the department will need more time than a standard effective/operative date of January 1, 2018, before the new program would be ready to launch. The provisions directing “negative reports” may need additional work to assure the right information is going to the right place at the right time. And, to keep all IID oversight together under one agency, the department recommends also moving oversight of the devices (ORS 813.600) to O.S.P. at the same time as the vendor oversight piece already encompassed in this bill.

## **SUMMARY**

With the passage of this bill, ODOT will establish an IID oversight program within the Transportation Safety Division. It will be staffed to establish administrative rules, establish a fee schedule that matches the cost of the program, will be capable of investigating complaints and monitor the information flow between the devices, installers, treatment professionals and the courts.