

## SB 999 -2 STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Prepared By:** Michael Lantz, Counsel

**Meeting Dates:** 4/3, 4/8

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#### **WHAT THE MEASURE DOES:**

Removes reference to alternative fuel vehicle. Defines alternative fuel vehicle.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

-2 Replaces measure. Creates two-pronged process for police officer to request consent for breath, blood, or urine test from individual arrested under suspicion of driving under the influence of intoxicants. Directs officer to first ask for consent to test individual and then, if individual refuses, to ask for physical cooperation and explain legal consequences of refusal to cooperate with test. Provides that evidence of refusal to cooperate can be used against defendant in court.

#### **BACKGROUND:**

In Oregon and in most other states an individual operating a vehicle on a public road is deemed to have given implied consent to a breath, urine, or blood test if the person is arrested for suspicion of driving a vehicle while intoxicated. Until this year, if a defendant refused to provide a sample that refusal could be used against the defendant in court. This year, the Oregon Supreme Court in *State v. Banks* found that a refusal to provide a sample can be either an act of noncooperation or an invocation of that individual's constitutional protections against self incrimination. If a court determines that the refusal is an invocation of a constitutional right, then that defendant's refusal cannot be used against him or her in court.

Senate Bill 999 removes an outdated reference to alternative fuel vehicles and replaces it with a new definition.