

SB 201 STAFF MEASURE SUMMARY

**Senate Committee On Judiciary and Ballot Measure 110
Implementation**

Prepared By: Michael Lantz, Counsel

Meeting Dates: 2/1

WHAT THE MEASURE DOES:

Provides that an individual is guilty of driving under influence of intoxicants if the individual has a .08 percent or higher blood alcohol level within two hours of driving. Allows individual to assert affirmative defense if individual consumed sufficient alcohol amount after driving to account for test results. Requires 21 days notice of affirmative defense. Defines "statutory counterpart" and specifies application. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under ORS 813.010, prosecutors can prove that a person was driving under the influence of intoxicants (DUII) if they show that the person, at the time of driving, had a .08 percent or higher blood alcohol level, was under the influence of intoxicating liquor, cannabis, a controlled substance or an inhalant, or was under the influence of any combination thereof. Whether the person has the requisite blood alcohol level is determined by a breath or blood test, usually taken at a police station or medical facility. Depending on when and where the stop occurs, it may be several hours before the breath or blood test occurs. Separately, if an individual has had two previous DUII convictions in the previous 10 years, any subsequent conviction will be considered a felony. The two prior convictions could have occurred in Oregon or in a state with a "statutory counterpart" to Oregon's DUII laws.

Senate Bill 201 provides that an individual is guilty of driving under the influence of intoxicants if that person is found to have a .08 or higher percent blood alcohol level within two hours of driving and defines "statutory counterpart."