



March 16, 2021

**RE: ODAА Testimony in Support of HB 3140**

Chair Bynum, Vice-Chairs Noble and Power, Members of the House Committee on Judiciary ODAА offers this written testimony in support of HB 3140. Please see the below testimony on behalf of one of our issue experts that serves on the ODAА Legislative Committee:

My name is Aubrey Olson. I am a Deputy District Attorney in Tillamook County, where I prosecute primarily traffic crimes. I work in an office of only 5 attorneys, and I am the only one who prosecutes traffic crimes. As such, I handle every DUII or BUII in Tillamook County. Since Ballot Measure 109 became law and legalized psilocybin, it is necessary to amend the DUII and BUII statutes to ensure a person who drives or operates a boat while impaired by psilocybin can be prosecuted for DUII or BUII.

As you know, Oregon’s DUII and BUII laws limit the impairing substances for purposes of those laws to intoxicating liquor, cannabis, controlled substances, and inhalants. Prior to BM 109, if a person was driving/boating while under the influence of psilocybin, then that person could be prosecuted for DUII or BUII, because psilocybin is listed as a Schedule I controlled substance under the Federal Controlled Substances Act.

Since the passing of BM 109, it is not as clear. BM 109 changed the definition of “controlled substance” for purposes of Oregon law to remove psilocybin from the list in certain situations. BM 109, Section 130, amending ORS 475.005(6)(b).

The same thing happened when Oregon legalized cannabis and as a result of the change to the cannabis laws, the DUII and BUII statutes were amended to add cannabis to the list of impairing substances.

The dangers of DUII are well known. There is no question psilocybin causes the kind of impairment the DUII/BUII laws seek to deter. In a recent example, a driver was stopped by police for multiple lane violations and stopping inappropriately. When contacted, the driver had difficulty maintaining concentration throughout even simple tasks, and he was responding to stimuli not present. That person was under the influence of psilocybin and was unable to drive safely. The clarification presented in HB 3140 would ensure your law enforcement partners can continue to keep our streets safe from these type of impaired driving circumstances.

**We urge your support for HB 3140.**