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**To: Members of the Senate Committee on Judiciary and
Ballot Measure 110 Implementation**

From: David LeDay
Keizer Police Department
On behalf of the Oregon Association Chiefs of Police &
Oregon State Sheriffs' Association
LeDayD@keizer.org

Date: February 1, 2021

Re: Testimony in Support of SB 201 – DUII Legislation

Chair Prozanski and members of the committee,

For the record, my name is David LeDay. I am a Sergeant with the Keizer Police Department and I'm here to represent the Oregon Chiefs of Police Association and the Oregon Sherriff's Association in support of SB 201. SB 201 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 and allows individual to assert an affirmative defense if the individual consumed a sufficient amount of alcohol after driving to account for test results.

I just want to quickly explain LE DUII processes and why a basic investigation could easily take up to 2-or more hours.

To qualify myself I just want to give you a very brief explanation of my experience. I have been in LE for over 30-years, over 28- with the Keizer Police Department. I have been an instructor and part time employee of DPSST for over 20-years in the field of Traffic Safety, this includes being a DRE/SFST instructor and a Certified Reconstructionist. I have been involved in over 1000 DUII investigations and have personally dosed and witnessed over 500 subjects with alcohol in a controlled environment. I can also say that, in my experience, I only arrest about 1 in 3 of the subjects I run through field sobriety tests.

Here is the process involved in a probable cause stop for violation or suspicion of DUII:

- Traffic stop occurs: Named complainant called in or an officer has probable cause of a violation or suspicion of DUII
- Personal Contact with the driver. Observations: Odor or admission of consuming intoxicants/bloodshot water eyes/thick slurred speech/drun stuporous appearance/fumbling of documents/having to repeat questions/inappropriate responses.

- Prior to conducting a field sobriety test (SFST) calling for a cover unit. Some areas may take up to 15-20 minutes. Adjusting your patrol vehicle for the video system to record the physical tests.
- Re-Contacting the subject, obtaining consent to perform the SFST / Having to read ROHRS for refusing consent. Reading Miranda warnings / asking medical screening questions then explaining and demonstrating each test for the subject to perform.
- Once the tests are complete and belief is confirmed impairment then the arrest is made.
- A search of the vehicle is completed for evidence of the crime along with any inventory and you have to secure any items seized.
- Once the search is complete, a tow is called and in many cases is 45-min out. Some agencies have enough man power to sit on the tow but most do not. If passengers are with the vehicle, the officer works to organize rides. Once the vehicle and passengers are taken care of, the Officer transports the person arrested to the an Intoxilyzer site.
- Once at the intoxilyzer site, the officer is required to read the Implied Consent form and, in many cases, provides a phone and phone book to the arrested so the arrested person can call for advice. This takes around 15-20 minutes.
- Once that is completed, the officer is required to wait at least another 15-minute observation period to make sure the arrested didn't take anything by mouth or regurgitate.
- Due to this lengthy process, for an officer to have two hours go by prior to obtaining a breath test, is not unreasonable at all.
- Times: vehicle in motion: 5+Personal contact 5+ Cover15+Pre-Arrest screening 15+Search inventory 15+ Tow45+ Transport /process30+ IC reading phone call 25+ Observation period 16+ Test 4+ = 175-Min's.

Thank you for your consideration