

HB 2316 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 1/24, 3/13

WHAT THE MEASURE DOES:

Defines “intoxicant” for purposes of Oregon Vehicle Code to include any drug, as defined in ORS 475.005, either alone or when used in combination with intoxicating liquor, an inhalant, psilocybin, cannabis or a controlled substance. Removes requirement that the person was under the influence of a controlled substance or an inhalant be pleaded in the accusatory instrument. Provides that once individual is convicted of felony driving while under influence of intoxicants, any subsequent episode of driving while under influence of intoxicants is Class C felony regardless of amount of time that intervenes between offenses.

ISSUES DISCUSSED:

- Language proposed similar to that of majority of other states
- Overlap in statutes relating to felony DUII
- Bike DUII's
- Impact on commercial driver license

EFFECT OF AMENDMENT:

-1 Replaces the measure.

Defines “intoxicant” for purposes of Oregon Vehicle Code to include any drug, as defined in ORS 475.005, either alone or when used in combination with intoxicating liquor, an inhalant, psilocybin, cannabis or a controlled substance. Removes requirement that the person was under the influence of a controlled substance or an inhalant be pleaded in the accusatory instrument. Establishes fines the court shall impose specific to when a person is convicted of driving while under the influence of intoxicants while riding a bicycle. Provides for increases of fine if the person rides a bicycle with a blood alcohol percent of 0.15 or more as shown by chemical analysis of breath or blood. Requires judgments of convictions for driving while under the influence of intoxicants to indicate whether the person was riding a bicycle. Removes driver suspensions from penalties and reduces treatment requirements for convictions of driving under the influence involving a bicycle. Excludes electric assisted bicycles from the definition of bicycle for purposes of provisions in measure. Creates an affirmative defense to the crime of driving under the influence of intoxicants involving a controlled substance that the person obtained the drug pursuant to a prescription or one available without prescription; consumed the drug as directed; abided by any warnings provided relating to consumption; and experienced a reaction to the drug that could not reasonably have been anticipated to cause the resulting adverse effects to the defendant’s mental or physical faculties relevant to the offense at issue. Requires notice of affirmative defense be provided as specified. Amends eligibility restrictions for entry into diversion when a defendant has previously participated in treatment as a juvenile or as the parent or guardian pursuant to an order of the juvenile court under ORS chapter 419B or 419C.

BACKGROUND:

Currently, a person may be convicted of driving while under the influence of intoxicants on the basis of being under the influence of intoxicating liquor, cannabis, psilocybin, a controlled substance or an inhalant or a combination of the above. The statute does include intoxication by any drug other than those listed or categorized as a controlled substance under ORS 475.005, defined as a drug or its immediate precursor classified

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in Schedules I through V under the federal Controlled Substances Act.

A person may not be convicted of driving while under the influence of intoxicants (DUII) on the basis of being under the influence of a controlled substance or an inhalant unless the fact that the person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory instrument.

Currently, under ORS 813.011, a defendant with two convictions for DUII in 10 years will have any future DUIIs treated as a felony. However, persons convicted of a felony DUII and sentenced under a different statute, ORS 813.010(5), may have future DUII charges treated as misdemeanors, even if they have more than two prior DUII convictions because the statutory language in ORS 813.011 limits consideration of convictions under other statutory sections.

House Bill 2316 would amend multiple statutes related to the crime of DUII. It would expand the offense of DUII to include being under the influence of any impairing drug; remove requirement that impairment by controlled substance or an inhalant be pleaded in the accusatory instrument; and it would reconcile felony DUII statutes governing repeat DUII offenders.