

HB 2316 A STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 03/13/23

Action: Do pass with amendments and be referred to Ways and Means by prior reference.
(Printed A-Eng.)

Vote: 9-1-0-0

Yeas: 9 - Andersen, Bynum, Conrad, Kropf, Lewis, Morgan, Reynolds, Tran, Wallan

Nays: 1 - Chaichi

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

Prepared By: Gillian Fischer, LPRO Analyst

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. 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.

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
- Amendment negotiations

EFFECT OF AMENDMENT:

Replaces the measure.

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 not 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 in Schedules I through V under the federal Controlled Substances Act. A person may not be convicted of driving

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while under the influence of intoxicants (DUI) 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, persons convicted of DUI involving a bicycle are subject to the same statutory drivers' license restrictions as persons convicted for DUI involving a motor vehicle. Oregon law allows a defendant to participate in diversion for the crime of DUI if the defendant meets certain conditions including that defendant did not participate in a diversion or rehabilitation program within the period beginning 15 years before the date of the commission of the present offense.

House Bill 2316 A amends multiple statutes related to the crime of DUI. It expands the offense of DUI to include being under the influence of any impairing drug; removes requirement that impairment by controlled substance or an inhalant be pleaded in the accusatory instrument; removes certain driving restrictions for persons convicted of DUI involving a bicycle; and removes certain restrictions on participation in diversion for the crime of DUI relating to persons who have participated in rehabilitation programs within 15 years of a present offense for DUI.