

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 5 - 0 - 0

Yeas: Beyer, Kruse, Prozanski, Walker, Burdick

Nays: 0

Exc.: 0

Prepared By: Darian Stanford, Counsel

Meeting Dates: 5/17, 5/30

WHAT THE MEASURE DOES: Exempts law enforcement officers from crime of failing to disclose that conversation is being recorded to participants in situations involving cameras in police cars or tasers with automatic recording devices. Prevents person with prior felony driving under the influence of intoxicants (DUII) conviction in Oregon or elsewhere from participating in diversion program. Clarifies language regarding what out-of-state DUII convictions count against a person in Oregon.

ISSUES DISCUSSED:

- Problem regarding “statutory counterpart” language in terms of DUIIs (i.e., DUII conviction in another state not counting against person in Oregon because other state statute does not require “public roadway” and therefore is not technically a statutory counterpart
- Technology of new taser devices with recording equipment

EFFECT OF COMMITTEE AMENDMENT: Adds exception for officers who deploy taser device with built-in recording device; provides clarification as to what out-of-state DUII-related convictions count against a defendant in Oregon in terms of calculating prior DUIIs; provides that any defendant with a felony DUII conviction from Oregon or another state is ineligible for diversion in Oregon.

BACKGROUND: ORS 165.540 generally makes it a Class A misdemeanor for a person to record conversations without the knowledge of all participants. There are certain exceptions, including but not limited to jail conversations and the recording of any conversation during a felony that endangers human life.

HB 2651 B adds a new exception for a “law enforcement officer” if the officer is in uniform, displaying a badge and operating a vehicle-mounted video camera that records the scene around a police vehicle for the duration of an event that began as an effort to enforce a traffic or vehicle law. Many officers have video recording devices in their police vehicles and use such devices in connection with traffic stops. Though officers tell the subject of the stop that their conversation is being recorded, it is possible during a lengthy traffic stop that other persons might enter the video camera’s area and be recorded without the person’s knowledge. HB 2651 B prevents officers from being criminally liable for such actions.

In addition, HB 2651 B prevents a person with a prior felony driving under the influence of intoxicants (DUII) conviction in Oregon, or elsewhere, from participating in Oregon’s diversion program (former Senate Bill 536). It also clarifies language regarding what out-of-state DUII convictions count against a person in Oregon (former Senate Bill 810).