

Senate Bill 114

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prescribes which elements of offenses require culpable mental state when not specified by statute.

A BILL FOR AN ACT

1
2 Relating to culpable mental states; amending ORS 161.095 and 161.115.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 161.095 is amended to read:

5 161.095. (1) The minimal requirement for criminal liability is the performance by a person of
6 conduct which includes a voluntary act or the omission to perform an act which the person is ca-
7 pable of performing.

8 (2) Except as provided in ORS 161.105, a person is not guilty of an offense unless the person acts
9 with a culpable mental state with respect to each material element of the offense that necessarily
10 requires a culpable mental state. **An element necessarily requires a culpable mental state if it**
11 **is associated with an act of a person. Circumstances that are independent from acts do not**
12 **necessarily require a culpable mental state.**

13 **SECTION 2.** ORS 161.115 is amended to read:

14 161.115. (1) If a statute defining an offense prescribes a culpable mental state but does not
15 specify the element to which it applies, the prescribed culpable mental state applies to each material
16 element of the offense that necessarily requires a culpable mental state. **An element necessarily**
17 **requires a culpable mental state if it is associated with an act of a person. Circumstances**
18 **that are independent from acts do not necessarily require a culpable mental state.**

19 (2) Except as provided in ORS 161.105, if a statute defining an offense does not prescribe a
20 culpable mental state, culpability is nonetheless required and is established only if a person acts
21 intentionally, knowingly, recklessly or with criminal negligence.

22 (3) If the definition of an offense prescribes criminal negligence as the culpable mental state, it
23 is also established if a person acts intentionally, knowingly or recklessly. When recklessness suffices
24 to establish a culpable mental state, it is also established if a person acts intentionally or knowingly.
25 When acting knowingly suffices to establish a culpable mental state, it is also established if a person
26 acts intentionally.

27 (4) Knowledge that conduct constitutes an offense, or knowledge of the existence, meaning or
28 application of the statute defining an offense, is not an element of an offense unless the statute
29 clearly so provides.
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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.