

**A-Engrossed**  
**House Bill 2428**

Ordered by the House April 10  
Including House Amendments dated April 10

Sponsored by COMMITTEE ON JUDICIARY

**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.

Increases penalty for assault in third degree if defendant commits assault by means of motor vehicle and was driving while under influence of intoxicants.

**A BILL FOR AN ACT**

1  
2 Relating to assault; creating new provisions; and amending ORS 163.165.

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

4 **SECTION 1.** ORS 163.165 is amended to read:

5 163.165. (1) A person commits the crime of assault in the third degree if the person:

6 (a) Recklessly causes serious physical injury to another by means of a deadly or dangerous  
7 weapon;

8 (b) Recklessly causes serious physical injury to another under circumstances manifesting ex-  
9 treme indifference to the value of human life;

10 (c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon un-  
11 der circumstances manifesting extreme indifference to the value of human life;

12 (d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical  
13 injury to the operator of a public transit vehicle while the operator is in control of or operating the  
14 vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS  
15 166.116;

16 (e) While being aided by another person actually present, intentionally or knowingly causes  
17 physical injury to another;

18 (f) While committed to a youth correction facility, intentionally or knowingly causes physical  
19 injury to another knowing the other person is a staff member of a youth correction facility while  
20 the other person is acting in the course of official duty;

21 (g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical tech-  
22 nician or paramedic, as those terms are defined in ORS 682.025, while the technician or paramedic  
23 is performing official duties;

24 (h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child  
25 10 years of age or younger;

26 (i) Knowing the other person is a staff member, intentionally or knowingly propels any danger-  
27 ous substance at the staff member while the staff member is acting in the course of official duty or  
28 as a result of the staff member's official duties; or

**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.

1 (j) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical  
2 injury to the operator of a taxi while the operator is in control of the taxi.

3 [(2)] **(2)(a)** Assault in the third degree is a Class C felony. When a person is convicted of vio-  
4 lating subsection (1)(i) of this section, in addition to any other sentence it may impose, the court  
5 shall impose a term of incarceration in a state correction facility.

6 **(b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under**  
7 **subsection (1)(a) or (b) of this section is a Class B felony if:**

8 **(A) The assault resulted from the operation of a motor vehicle; and**

9 **(B) The defendant was the driver of the motor vehicle and was driving while under the**  
10 **influence of intoxicants.**

11 (3) As used in this section:

12 (a) "Dangerous substance" includes, but is not limited to, blood, urine, saliva, semen and feces.

13 (b) "Staff member" means:

14 (A) A corrections officer as defined in ORS 181.610, a youth correction officer, a Department  
15 of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a con-  
16 tract with the department or youth authority to work with, or in the vicinity of, inmates or youth  
17 offenders; and

18 (B) A volunteer authorized by the department, youth authority or other entity in charge of a  
19 corrections facility to work with, or in the vicinity of, inmates or youth offenders.

20 (c) "Youth correction facility" has the meaning given that term in ORS 162.135.

21 **SECTION 2. The Oregon Criminal Justice Commission shall classify assault in the third**  
22 **degree that is committed under the circumstances described in ORS 163.165 (2)(b) as crime**  
23 **category 8 of the sentencing guidelines grid of the commission.**

24 **SECTION 3. Section 2 of this 2009 Act and the amendments to ORS 163.165 by section 1**  
25 **of this 2009 Act apply to conduct occurring on or after the effective date of this 2009 Act.**

26