



**Testimony of Becky Straus, Legislative Director
In Opposition to HB 2957
House Committee on Judiciary
March 11, 2013**

Chair Barker and Members of the Committee:

Thank you for the opportunity to provide comments in regard to HB 2957 and to express our concerns. Because HB 2957 heightens the penalty for a crime already punishable under current law, we are opposed to the bill.

Under current law, robbery in the second degree punishes by a Class B felony a person who engages in theft and “represents by word or conduct that the person is armed with what purports to be a dangerous or deadly weapon.” By contrast, robbery in the first degree punishes by a Class A felony a person who engages in theft and “is armed with a deadly weapon.” HB 2957 has the effect of elevating the penalty for robbery in the second degree from a Class B felony to a Class A felony when the person “displays an object that a reasonable person would presume to be a deadly weapon.”

When the Legislature seeks to treat an “attempt” crime with the same level of severity as a “completed” crime, such a proposal raises concerns under Art I, sec 16 of the Oregon Constitution, which requires that criminal sentences be proportionate to the offense. HB 2957 raises similar concerns. If a person who purports to be armed is subject to the same penalty as a person who is actually armed with a deadly weapon, we are concerned that this right is implicated.

Finally, while the ACLU thinks that certain crimes or actions in certain contexts may be deemed worthy of a penalty enhancement, moving forward in this way seems inconsistent with the work and goals of the Public Safety Committee that is studying in depth our criminal justice system, its priorities, and its fiscal realities. We hope you will consider this concept in the context of the larger public safety discussions.

Thank you for the opportunity to provide comments. We respectfully urge that you do not move forward with this bill.