

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: HB 2335
CARRIER: Sen. Burdick

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 03/05/15

Action: Do Pass.

Meeting Dates: 03/05

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Eric Deitrick, Counsel

WHAT THE MEASURE DOES:

Revises definition of “enter and remain unlawfully” in ORS 164.205 to mirror existing appellate interpretation.

ISSUES DISCUSSED:

- Judicial interpretation occurred many years ago, but issue continues to be raised at trial and appellate courts
- Oregon State Bar considered changing uniform jury instruction, but thought amending statute first would be simpler

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

The definition of “enter and remain unlawfully” impacts several areas of the criminal code, most notably the burglary and trespass statutes. ORS 164.205 states a person enters or remains unlawfully when, at the time of the entry or remaining, the premises “are not open to the public” or “when the entrant is not otherwise licensed or privileged to do so.” In *State v. Hartfield*, 290 Or. 583 (1981), the Oregon Supreme Court interpreted the statute and decided the legislature intended the “or” to be an “and.” The statute has not been revised to reflect that interpretation. In 2014, there was an Oregon Court of Appeals opinion re-stating this well-settled legal interpretation.

House Bill 2335 revises the statute so that it mirrors the existing judicial interpretation of the statute.