

STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 06/04/15

Action: Do Pass With Amendments To The A-Eng Bill. (Printed B-Eng.)

Meeting Dates: 06/02, 06/04

Vote:

Yeas: 4 - Burdick, Gelser, Prozanski, Thatcher

Exc: 1 - Kruse

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Establishes exemption to one-party notification recording requirement. Details exemption.

ISSUES DISCUSSED:

- Application of the bill to the interfering with a peace officer statute
- Why recording of police is important to protect civil liberties
- Circumstances in which recording may interfere with police duties
- Recent cases in South Carolina and Maryland

EFFECT OF COMMITTEE AMENDMENT:

Clarifies statutory intent.

BACKGROUND:

House Bill 2704-B addresses the situation where a private citizen is recording a police officer. Most commonly, this occurs when an individual is recording an officer making an arrest. Under ORS 165.540, a person who obtains, or attempts to obtain, the whole or part of a conversation by means of any device must “specifically inform” the parties of the recording. Failure to do so constitutes a Class A misdemeanor. ORS 165.540 provides specific exemptions to this rule. Examples include: 1) public or semipublic meetings such as hearings before governmental or quasi-governmental bodies, trials, press conferences, public speeches, rallies, and sporting or other services; 2) regularly scheduled classes or similar educational activities in public or private institutions; and 3) law enforcement officers operating vehicle mounted cameras.

House Bill 2704-B creates a new exemption to this rule for citizens who are recording the police. The exemption applies to a person who openly, and in plain view of the participants in the conversation, records a law enforcement officer while the officer is performing his or her official duties in a place where person recording is lawfully present. The measure makes clear that the exemption does not authorize a person to engage in conduct constituting criminal trespass.