

April 13, 2017

Dear House Judiciary Committee,

I am submitting testimony about HB 2597 (SB2).

I have several concerns about the overbreadth and unintended consequences of this bill.

I understand you will be considering HB2597 which would amend ORS 811.507, removing several of the specific exemptions from the definition of the distracted driving offense. The problem overall in the electronic device world is cell phones and Ipads being used by drivers. I am writing to urge that you vote to preserve the exemption in 3(h) of ORS 811.507 and exempt dedicated navigation devices including after-market GPS devices.

I am an amateur radio operator involved in disaster communications in Oregon. I have been operating a mobile radio in my car since becoming licensed over a decade ago. There is a vast difference between operating a phone and my radio. I do not take my eyes from the road when I pick up the mic. I do not take my eyes or attention from the road when I press the "talk" button and speak, and then listen. A mic, if it has a keypad, the use of which is limited to a toggle switch to change frequency - again, is done by feel, without taking my eyes off the road.

It is also the case there are almost no ready made, hands-free radio equipment, what exists is from a single manufacturer, and it is a very expensive radio. It would be unduly burdensome for mere volunteers to go out and buy a special radio to comply with this proposed law.

I take driving safety very seriously. I am acutely aware my 5,0000 SUV is a dangerous device. I am also acutely aware that using a radio has never been a cause of a documented accident. I have seen nearly occuring and nearly been in accidents because of others using their cell phones illegally, but pushing the button on my microphone is actually less distracting than changing the heater level in my car.

I urge your committee to not remove subsection 3(h) related to exempting FCC licensed amateur radio operators from ORS 811.507.

Also, I am wondering why there is an apparent distinction between operating an OEM navigation system and an after-market stand-alone GPS on the dash. If it is inadvertent, I assume an amendment would be needed. If it is intended, it is not rational because the very location of the after-market GPS would allow peripheral vision -- not so with a system in the dash.

Further, HB2597 has staked out a position -- with no scientific evidence to back it up-- that mobile 2-way business or amateur radio is a cause of the problem you are trying to address. Amateur radio has existed for 80 years, and been in vehicles since at least the 1960's with no documented increase in dangerous driving. The US Department of Transportation has confirmed this.

I urge the committee to amend the bill to exclude mobile VHF/HF radio use while operating a vehicle, if there is an FCC license by the user.

I predict HB2597 if not amended will be enforced mainly as a pretext and will fall disproportionately on the poor and minorities and make criminals of the very volunteers the State of Oregon relies upon for disaster communications.

The penalties are unnecessarily harsh where there already is a crime of reckless driving. Oddly, the bill has a tougher penalty than that for DUII, which may be mitigated by diversion. I think this bill should include a diversion provision that allows dismissal of the criminal charge, and diversion, and be an infraction unless an accident has occurred.

Please amend HB2597 to allow an after-market stand alone GPS receiver to be used, and to allow business or amateur operating a VHF or HF radio under an FCC license. Please also add a diversion provision on par with the DUII statutes and decriminalize non-accident related charges.

Thank you for your attention.

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