

HB 2794 A STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 04/18/17

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 9-0-2-0

Yeas: 9 - Barker, Gorsek, Greenlick, Lininger, Olson, Post, Sanchez, Stark, Williamson

Exc: 2 - Sprenger, Vial

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Reduces mental state necessary for conviction of unlawful use of vehicle. Requires state to prove that defendant knows, or fails to be aware of a substantial and unjustifiable risk, that the owner of a vehicle does not consent to the defendant's use of the vehicle. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Fact patterns in stolen car cases leading to acquittals and decisions not to prosecute
- Mental states necessary to convict
- Jury decisions

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In prosecutions for the unlawful use of a vehicle, which frequently involve allegations of a stolen car, the state must prove beyond a reasonable doubt that the defendant knows the vehicle is being operated without the owner's consent. While a judge or jury may base a conviction on reasonable inferences drawn from circumstantial evidence, the Court of Appeals has concluded that certain fact patterns "require[] the stacking of inferences to the point of speculation." *State v. Shipe*, 264 Or. App. 391 (2014); *State v. Korth*, 269 Or. App. 238, 243 (2015). As a result, some counties are experiencing an increase in the number of acquittals in these cases and are, as a result, prosecuting fewer stolen car cases. House Bill 2794-A reduces the required mental state and allows a conviction for the unlawful use of a vehicle if the state proves beyond a reasonable doubt that the defendant "fails to be aware of a substantial and unjustifiable risk" that the owner does not consent to the use of the vehicle.