

# Enrolled House Bill 2721

Sponsored by Representatives MCLAIN, GORSEK, Senator THOMSEN, Representative SPRENGER,  
Senator OLSEN; Representatives BARKER, HOLVEY, POWER, Senators DEMBROW, DEVLIN,  
FREDERICK, THATCHER (Pre-session filed.)

CHAPTER .....

## AN ACT

Relating to road worker safety; amending ORS 163.165; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 163.165 is amended to read:

163.165. (1) A person commits the crime of assault in the third degree if the person:

(a) Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon;

(b) Recklessly causes serious physical injury to another under circumstances manifesting extreme indifference to the value of human life;

(c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life;

(d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a public transit vehicle while the operator is in control of or operating the vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS 166.116;

(e) While being aided by another person actually present, intentionally or knowingly causes physical injury to another;

(f) While committed to a youth correction facility, intentionally or knowingly causes physical injury to another knowing the other person is a staff member while the other person is acting in the course of official duty;

(g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical services provider, as defined in ORS 682.025, while the emergency medical services provider is performing official duties;

(h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child 10 years of age or younger; [or]

(i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a taxi while the operator is in control of the taxi[.]; **or**

**(j) Intentionally, knowingly or recklessly causes physical injury to a flagger or a highway worker while the flagger or highway worker is performing official duties.**

(2)(a) Assault in the third degree is a Class C felony.

(b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under subsection (1)(a) or (b) of this section is a Class B felony if:

(A) The assault resulted from the operation of a motor vehicle; and

(B) The defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants.

(3) As used in this section:

(a) **“Flagger” has the meaning given that term in ORS 811.230.**

(b) **“Highway worker” has the meaning given that term in ORS 811.230.**

[(a)] (c) “Staff member” means:

(A) A corrections officer as defined in ORS 181A.355, a youth correction officer, a youth correction facility staff member, a Department of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, inmates, youth or youth offenders; and

(B) A volunteer authorized by the department, youth authority or other entity in charge of a corrections facility to work with, or in the vicinity of, inmates, youth or youth offenders.

[(b)] (d) “Youth correction facility” has the meaning given that term in ORS 162.135.

**SECTION 2. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.**

**Passed by House June 22, 2017**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 30, 2017**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2017

**Approved:**

.....M.,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2017

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Dennis Richardson, Secretary of State