

# House Bill 2721

Sponsored by Representatives MCLAIN, GORSEK, Senator THOMSEN; Representatives BARKER, POWER, Senators DEMBROW, FREDERICK (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases penalties for assault committed against flagger or highway worker who is performing official duties. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Establishes Task Force on Road Worker Safety to study methods to increase safety of highway workers and flaggers.

Sunset task force on December 31, 2018.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to road worker safety; creating new provisions; amending ORS 163.165; and declaring an  
3 emergency.

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

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

6 163.165. (1) A person commits the crime of assault in the third degree if the person:

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

9 (b) Recklessly causes serious physical injury to another under circumstances manifesting ex-  
10 treme indifference to the value of human life;

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

13 (d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical  
14 injury to the operator of a public transit vehicle while the operator is in control of or operating the  
15 vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS  
16 166.116;

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

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

22 (g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical ser-  
23 vices provider, as defined in ORS 682.025, while the emergency medical services provider is per-  
24 forming official duties;

25 (h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child  
26 10 years of age or younger; *[or]*

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

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

9       (3) As used in this section:

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

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

12       [(a)] (c) “Staff member” means:

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

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

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

20       **SECTION 2. (1) The Task Force on Road Worker Safety is established.**

21       **(2) The task force consists of seven members appointed as follows:**

22       (a) **The President of the Senate shall appoint one member from among members of the**  
23 **Senate.**

24       (b) **The Speaker of the House of Representatives shall appoint one member from among**  
25 **members of the House of Representatives.**

26       (c) **The Governor shall appoint five members as follows:**

27       (A) **Two members representing highway workers and flaggers, as those terms are defined**  
28 **in ORS 811.230;**

29       (B) **Two members representing managers of highway workers and flaggers; and**

30       (C) **The Director of Transportation or the director’s designee.**

31       (3) **The task force shall study methods to increase the safety of highway workers and**  
32 **flaggers while the highway workers and flaggers are performing official duties.**

33       (4) **Members of the Legislative Assembly appointed to the task force are nonvoting**  
34 **members of the task force and may act in an advisory capacity only.**

35       (5) **A majority of the voting members of the task force constitutes a quorum for the**  
36 **transaction of business.**

37       (6) **Official action by the task force requires the approval of a majority of the voting**  
38 **members of the task force.**

39       (7) **The task force shall elect one of its members to serve as chairperson.**

40       (8) **If there is a vacancy for any cause, the appointing authority shall make an appoint-**  
41 **ment to become immediately effective.**

42       (9) **The task force shall meet at times and places specified by the call of the chairperson**  
43 **or of a majority of the voting members of the task force.**

44       (10) **The task force may adopt rules necessary for the operation of the task force.**

45       (11) **The task force shall submit a report in the manner provided by ORS 192.245, and**

1 may include recommendations for legislation, to an interim committee of the Legislative  
2 Assembly related to transportation no later than September 15, 2018.

3 (12) The Department of Transportation shall provide staff support to the task force.

4 (13) Notwithstanding ORS 171.072, members of the task force who are members of the  
5 Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volun-  
6 teers on the task force. Other members of the task force are not entitled to compensation  
7 or reimbursement for expenses and serve as volunteers on the task force.

8 (14) All agencies of state government, as defined in ORS 174.111, are directed to assist  
9 the task force in the performance of the task force's duties and, to the extent permitted by  
10 laws relating to confidentiality, to furnish information and advice the members of the task  
11 force consider necessary to perform their duties.

12 SECTION 3. Section 2 of this 2017 Act is repealed on December 31, 2018.

13 SECTION 4. This 2017 Act being necessary for the immediate preservation of the public  
14 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect  
15 on its passage.  
16

---