

HB 2328 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/12

WHAT THE MEASURE DOES:

Amends the mental state necessary to prove a person has committed the crime of Unlawful Use of a Vehicle.

Requires state to prove that defendant knowingly takes control of another's vehicle and is aware of and consciously disregards a substantial and unjustifiable risk that the owner of a vehicle does not consent to the defendant's use of the vehicle. States that a person who knowingly rides in another's vehicle without the consent of the owner or authorized user is also guilty of unlawful use of a vehicle if they knew, at the time, the owner or authorized user did not consent. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

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). House Bill 2328 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 "is aware of and consciously disregards a substantial and unjustifiable risk" that the owner does not consent to the use of the vehicle.