

Date March 18, 2019

TO: The Honorable Sen. Byer and Rep. McKeown, Co-Chairs
Joint Committee on Transportation

FROM: Richard H. Mills, JD
Resident House District 24

SUBJECT: Senate Bills 559 and 560 – Effect on Active Duty Military Personnel

- **Co-chairs Byer and McKeown and Members of the Committee:**
- **Background**
 - My son joined the US Army approximately 3 years ago.
 - While my son was in Basic Training at Ft Sill, Oklahoma, the City of Seattle issued a radar photo red light ticket to him. Obviously it was physically impossible for him to have run a red light in Seattle.
 - We first learned of this about 2 years later when Seattle's debt collector contacted me at my home in Oregon.
 - According to Seattle personnel all mail about the ticket had been returned as undeliverable.
 - This is not surprising, because in about a three-year period my son has lived at Ft Sill, Oklahoma; Ft Huachuca, Arizona; Ft Hood, Texas; Ft Carson, Colorado; Bagram, Afghanistan and Doha, Qatar.
 - I am happy to report that the prayers of family, friends and some strangers have been answered, because he returned two weeks ago from the Middle East unharmed.
 - Seattle told me that my son had to file a motion with the Municipal Court asking the judgment be vacated and the charge dismissed. Something the typical enlisted soldier doesn't have the skill or in some cases the free time to do.
- **Service Member Civil Relief Act**
 - Congress enacted the Service Member Civil Relief Act to protect active duty military personnel, and it affords several protections.
 - One protection is that before a default judgment in a civil matter can be taken the party asking for the default judgment must attempt to determine the active duty status of the defendant.
 - Then the party seeking the default must submit an affidavit to the court regarding the military status of the defendant.
 - The court before entering a default must verify that the affidavit has

been submitted and generally cannot issue a default against an active duty service member.

- This protects military personnel, such as my son, from being ambushed in court when they are unable to protect themselves.
- As a matter of law, it is unclear to me whether traffic offenses are a “civil matter” within the meaning of the Service Member Civil Relief Act.
- **Department of Defense**
 - The Dept of Defense maintains a website where the full name and date of birth of an individual can be entered to see if the person is active duty military. Information readily available through the same motor vehicle license databases checked to send out radar tickets.
 - It is my understanding that batch searches can be performed, and companies can be contracted to perform the batch searches.
- **Request**
 - If Oregon is going to continue to use and expand use of radar to issue traffic tickets where the accused in essence has to prove innocence, then I think Oregon needs to take steps to protect active duty service personnel and mandate compliance with the Service Member Civil Relief Act or an Oregon equivalent.