

February 21, 2022

RE: Opposition to HB 4105

Chair Prozanski, Vice-Chair Thatcher and members of the committee,

For the record, I am Nathan Soltz. For your reference, I am the Chief of Staff for Senator Lew Frederick; however, I am writing in my own personal capacity as a concerned Oregonian and my testimony should not in any way be construed as representing Senator Frederick's thoughts on this matter.

Unmanned automated traffic cameras violate the Sixth Amendment of the United States Constitution¹. The Constitution provides that those accused of a crime have the right to "be confronted with the witnesses against [them]" (i.e. face their accuser). It is impossible to question a camera. Proponents of traffic cameras commonly counter that the Constitution does not really provide this right, or at least doesn't do so for traffic violations, or that the officer reviewing the camera footage takes the place of the camera as the accuser. Courts have rejected all of these arguments in many states². Courts in many states have ruled such cameras unconstitutional and the use of these cameras nationally is decreasing accordingly, though Oregon is headed in the opposite direction².

Traffic cameras are primarily implemented as a revenue stream for governments and while studies commissioned by parties with clear conflicts of interest allege that their products increase safety, truly independent studies show effectively no change or even negative outcomes^{2,3}. At the very least, the data on the effectiveness of traffic cameras to improve safety are varied and reasonably disputable. I recognize that this bill does not itself increase the number of traffic cameras, but it certainly incentivizes their use. Not only that, but proponents have put on the record that expanding the use of traffic cameras is an expressed purpose of the bill.

Further, at a time when people are protesting in cities across the country demanding better training and more accountability for law enforcement, HB 4105 is taking the role of law enforcement away from law enforcement officers altogether. Traffic cameras are already one step removed from what is constitutional. HB 4105 would take enforcement of traffic laws using traffic cameras another step away from the constitution. If the concern is with a municipality's ability to recruit and retain law enforcement officers, the solution is not to lower the standards to enforce laws, but to reexamine the reasons why the recruitment and retention of officers is so difficult – and I mean the real root causes, the causes of distrust of police officers in our communities. Proponents correctly state that without this bill, expanding traffic camera programs is challenging – as it should be. Supporting the hiring of pseudo-officers to enforce laws is not the message the legislature nor municipalities should want to send to their communities, yet that is exactly what this bill would permit and encourage.

While proponents cite the costs of paying bona fide officers to review camera footage as a reason for this bill, I see it as a reason to oppose it. If municipalities are so eager to automate law enforcement, they should at least have to pay a proper law enforcement officer to review the computer's work. I also believe that an important human element is being overlooked in this bill. If an Oregonian challenges a traffic camera citation, they have the right to face the camera's human avatar in court. Currently, that means it's a law enforcement officer who has to appear. With this bill, a "traffic enforcement agent" who is explicitly "not a police officer" would have to appear in court and face questioning. The non-police municipal employees hired to issue traffic citations, as this bill would have it, should not be subjected to representing the police department in court. Or maybe an officer would replace them at that point and the whole ordeal would be yet another step removed from constitutionality.

The amendments do not alleviate any concerns. Mr. Chair and members, I urge that you do not pass HB 4105.

Sincerely,

Nathan Soltz

¹ <https://thehill.com/opinion/criminal-justice/457790-red-light-cameras-undermine-rule-of-law>

² <https://www.ncsl.org/research/transportation/enforcing-traffic-laws-with-red-light-and-speed-cameras.aspx>

³ <https://www.scientificamerican.com/article/red-light-cameras-may-not-make-streets-safer/#>