

To: Joint Committee on Transportation

Fr: Hon. Daniel A. Cross

Re: HB4109; specifically, the proposed amendment to ORS 809.220(1)(b)

Members of the Committee, my name is Daniel A. Cross, and I am the Justice of the Peace for Washington County and have been for the past seven years. I submit this testimony to you today not on behalf of Washington County but on behalf of the Oregon Justice of the Peace Association (OJPA) as well as on behalf of myself as an individual. I have been a member of the OJPA since I took the bench and I currently serve on the legislative committee of that organization. My committee has been directed by our board of directors to oppose this amendment with the overwhelming support of our membership (only one Justice of the Peace voted to support the amendment).

Prior to becoming the Justice of the Peace, I was a criminal and juvenile defense attorney for 25 years, a member of the Oregon Criminal Defense Lawyers Association (OCDLA) for 25 years serving on the board of directors for the OCDLA and was President of OCDLA in 2005-2006.

The first thing I will point out is that this change opens the door to a legal argument that, in practice, the amendment will lead to violations of the equal protection provisions of the United States and Oregon constitutions. There are groups with good lawyers who have been pursuing legal challenges on these types of issues over the last few years who, I believe, would pick up this issue rather quickly. For example, my court, the Washington County Justice Court, is located in Beaverton, as is the Beaverton Municipal Court. Both of these courts adjudicate a large number of traffic violation citations every year. The Beaverton court supports this amendment and, one would believe, would not issue notices of suspensions. The Justice Court would continue to issue those notices. Thus, the legitimate argument would go, two defendants being adjudicated on the same or very similar violation, in the same city and in the same

county, would receive very disparate treatment. One might say that other statutes typically provide for judicial discretion, and they would be correct. However, those statutes typically provide a framework of factors for the court to consider in the exercise of its discretion. This amendment fails to provide such a framework. It will be ripe for an equal protection challenge.

The second thing that I will submit to you is that court orders need to matter. If ORS 809.220(1)(b) is amended as proposed, the number of violation defendants who ignore court summons dates, hearing dates, sentencing dates, etc. will increase substantially. For many defendants, if the only consequence of not responding to a citation is having the fine imposed after a default sent to collections, this will be seen as no consequence whatsoever. In my court, the large majority of defendants who have failed to appear, will only respond to a license suspension. I see a dozen or more defendants per week who come in to clear old suspensions who are only before me in order to be able to reinstate their license. I happily do so after working out a payment with them wherein we set a payment amount that is affordable for their economic circumstances. Sometimes these payments are as low as \$5.00 or \$10.00 per month.

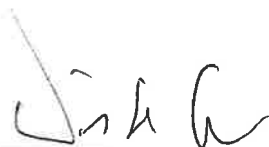
The third item I will submit is in regard to the mechanics of the Notice of Suspension process. It is my understanding that some courts are indicating that it takes a significant amount of staff time. Now, I confess, in my court I am not the person dealing with sending the Notice material off to DMV. I asked my court administrator, my lead clerk, and court clerks how long it takes us to prepare and send that information. The consensus response was 2 minutes.

This amendment will create unnecessary legal challenges, will make the difficult problem of compliance even worse and will not have any significant impact on court workloads. What it will do is further diminish the importance of traffic violations and violators. In the last few years, the law enforcement agencies that file in my court have

greatly reduced the number of cites they file. The Washington County Sheriff's Office used to file between 17,000 and 18,000 citations per year in this court. Last year, it filed 4,789. Last year, I was informed, Washington County had its highest number of traffic fatalities in 40 years.

Traffic citations and their adjudication and the enforcement of that adjudication matter.

Or, should matter.

A handwritten signature in black ink, appearing to read "D. Cross", written above a horizontal line.

Hon. Daniel A. Cross

