



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: February 27, 2024

TO: Chair Kropf, Vice-Chairs Wallan and Andersen, and
Members of the House Committee on Judiciary

FROM: Kimberly McCullough, Legislative Director
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SUBJECT: Support for Sections 5-7 and 14-25 of SB 1574A
Technical Fixes: LESC and Hit & Run

Sections 5 to 7 of SB 1574A make minor technical fixes to statutes related to the [Commission on Statewide Law Enforcement Standards of Conduct and Discipline](#) (LESC).

In 2021, this legislature passed [HB 2930](#), which created the LESC. The statute governing the LESC was codified at ORS 243.812. HB 2930 also enacted two additional statutes and amended another that relate to the standards adopted by the LESC. More specifically:

- ORS 243.808 (created by section 2 of HB 2930) sets out standards for arbitration over disciplinary actions concerning alleged misconduct by a law enforcement officer conducted under ORS 243.706.
- ORS 243.809 (created by section 3 of HB 2930) requires discipline for law enforcement officer misconduct to be determined in accordance with the standards adopted by LESC.
- ORS 243.706 (amended by section 7 of HB 2930) allows Collective Bargaining Agreements with public employees to be resolved by arbitration. This statute was amended to clarify that arbitration findings related to discipline of law enforcement officers must align with the standards adopted by LESC.

In the 2023 long session, [SB 808](#) broadened the definitions of law enforcement agency and law enforcement officer in ORS 243.812, the statute that governs the LESC. Unfortunately, we failed to simultaneously amend the definitions of law enforcement agency and law enforcement officer in the three additional statutes listed above, creating an inconsistency in these collective statutes.

More specifically, because we only amended the definitions of law enforcement agency and law enforcement officer in ORS 243.812, LESC creates standards for a broad group of law enforcement officers and agencies, yet the statutes that then utilize the LESC standards only apply to the narrower sets of officers and agencies.

The fix for this is simple: the definitions of “law enforcement agency” and “law enforcement officer” in ORS 243.808(4)(b), ORS 243.809(3)(b), and ORS 243.706(3) should each cite to the meanings given those terms in ORS 243.812 as amended by SB 808.

Sections 14 to 25 of SB 1574A amend the Failure to Perform the Duties of a Driver statutes, or otherwise known as the hit and run statutes. Due to a recent court decision, there is no duty for a driver to report a vehicle collision that causes injury or death or damage to property where the actual location of the collision is not on a premises open to the public for use of motor vehicles. This bill would restore the duty to report property damage to premises open to the public as well as locations that are adjacent to premises open to the public. In addition, this bill would impose a duty to report a collision caused by a vehicle that causes injury or death in any location.

More specifically, Sections 14 through 25 addresses the Court of Appeals’ recent decision in *State v. Peterson*, 329 Or App 76 (2023), where the court held that the Failure to Perform the Duties of a Driver statute, otherwise known as the hit and run statute, applies only to vehicle collisions that occur on premises open to the public. In *Peterson*, a man stole an SUV, and after driving a few blocks ran a stop sign and entered a person’s driveway where he hit their parked car. He then drove onto their front yard and hit a tree that fell onto their house. He left the scene without giving the owners any contact information. The court ruled that because the defendant in *Peterson* had crashed his vehicle into the victim’s car in their driveway, and because that collision did not occur on a “premises open to the public”, the court found that there was no obligation for the defendant to perform the duties of a driver and provide his information.

This ruling overruled a 2005 decision, *State v. Probe*, 200 Or App 708 (2005), which had held that the reporting statute applied to collisions that occurred on premises open to the public as well as premises that are adjacent to premises open to the public. One result of these amendments will be to return the law to where it was before *Peterson*, by making it clear that the hit and run statute applies to vehicle collisions that occur on premises open to the public and premises adjacent to premises open to the public where property is damaged.

Without a law change, the *Peterson* case will also affect vehicle collisions that cause injury or death. For example, if a person drives in a reckless manner on the roadway, jumps the curb and hits a pedestrian on the sidewalk, there would be no duty to report as the actual collision did not take

place on a premises open to the public for use of motor vehicles. The amendments in this bill would also impose a duty to report if a person was injured or killed by a vehicle on both public and private property. Without the law change, for example, a UPS driver who drove down someone's driveway and hit a child, would have no duty to report. Similarly, if a person is struck by a car in a gated community there would also be no duty to report. The amendments in this bill would fix this.