

Submitter: Sarah Phillips
On Behalf Of: OREGON CITIZENS
Committee: Joint Interim Committee On Transportation
Funding
Measure, Appointment or Topic: LC 2

Dear Members of the Committee,

Although the Legislature retains constitutional authority to set tax rates and create fee structures, the draft bill LC2 delegates unconstitutionally broad discretion to the Oregon Department of Transportation. The following provisions raise red flags because they allow ODOT to act without direct voter approval or legislative oversight, and THIS IS UNCONSTITUTIONAL:

1. Civil Penalty Discretion

Section 71–72 (pp. [67]): Creates civil penalties up to \$1,000 or \$10 per gallon of tank capacity for illegal fuel use.

Section 73 amending ORS 319.700 (pp. [67]): Authorizes ODOT to remit or reduce penalties “upon such terms as the department considers proper.”

Concern: This gives the agency unchecked power to both impose and forgive financial sanctions, without legislative standards for consistency or fairness.

THIS IS UNCONSTITUTIONAL.

2. Emergency Suspension of Statutes

Section 74 amending ORS 823.012 (pp. [67–68]): Allows the Director of Transportation to suspend weight, size, and permit laws during a declared emergency (ORS 401.025).

Concern: Normally only the Legislature alters statutory requirements. Here, the executive branch can override enacted laws without review.

THIS IS UNCONSTITUTIONAL.

3. Rulemaking on Local Fees

Sections 49–50, 52 (pp. [38–43]): Amend ORS 801.041, 801.042, 803.445, and section 6, chapter 491, Oregon Laws 2019.

These provisions require that local registration fees (approved by voters or local ordinances) be collected and administered under ODOT rules.

Concern: Even if voters approve limits, ODOT can shape how fees are applied or credited, shifting burdens without further consent.

THIS IS UNCONSTITUTIONAL.

4. Automatic Vehicle Liens

Section 73 (pp. [67]): Expands ORS 319.700 so that unpaid taxes and penalties become automatic liens on vehicles, paramount to private liens.

Concern: ODOT may encumber private property without the need for a judicial process or further legislative or voter approval.

Guaranteed, there will be Court cases in which some may argue that these provisions are unconstitutional on their face, as each concentrates significant power inside ODOT. Oregon voters and legislators are normally guaranteed a say in matters of taxation, penalties, and enforcement.

This LC2 dilutes those checks and balances, granting the Department of Transportation unilateral discretion that should remain in the hands of only elected representatives (not Appointed friends of the Governor) and most importantly, to the voters of Oregon - the electorate.

Respectfully submitted,
Sarah E. Philips