

DATE: March 20, 2013
RE: HB 2544
TO: HOUSE JUDICIARY
FROM: OREGON MUNICIPAL JUDGES AND JUSTICES OF THE PEACE ASSOCIATIONS

LOCAL JUDGES OPPOSE HB 2544

RETAIN CURRENT OREGON LAW for state and municipal traffic offense convictions.

Integrity of the record is essential to the fair administration of justice.

1. Judges rely on past traffic violation conviction history from the Department of Motor Vehicles (DMV) to determine the appropriate sentence for the current traffic violation in order to promote traffic safety.
2. DMV receives and reviews traffic violation convictions from all individual state and municipal courts. Based on conviction history, DMV determines which drivers need sanctions such as restricted driving hours, license suspensions or additional education to promote traffic safety.
3. DMV utilizes a graduated system of sanctions based on the ability to view an accurate state wide traffic violation conviction record for drivers.
4. Convictions that have been set aside/expunged will be removed from DMV and court records and will not be able to be viewed by judges or DMV.

Existing legal procedures can be utilized to remedy erroneous convictions.

1. Citizens or attorneys currently petition the court to reconsider a traffic violation conviction by filing a Motion to Set Aside a conviction based on error, inadvertence or mistake.
2. Judges currently reconsider any judgment where there has been an error in adjudication and can, and do, vacate traffic violation convictions.
3. DMV allows courts to vacate convictions. DMV removes the conviction from the driving record.
4. If there is an irregularity in the enforcement of the offense, the issue can be brought to the court's attention during the proceeding by an oral or written Motion to Dismiss or after the conviction by a Motion to Set Aside.
5. There are existing appeal procedures, either to Circuit Court or the Court of Appeals, for traffic violation convictions that can be utilized by citizens and attorneys.

The HB2544 process involves prosecuting attorneys who rarely appear in violation proceedings.

1. Generally, prosecuting attorneys are not involved in any stage of the prosecution of a violation offense. District attorneys rarely appear in traffic violation proceedings unless the violation is part of a criminal episode. City attorneys who appear in traffic violation proceedings usually limit involvement to cases where an attorney represents the violator/citizen.
2. Costs to tight city, county and State budgets will be incurred for processing the Motions.

Respectfully submitted,

Karen Brisbin, OMJA President

Joe Charter, OJPA President