

**From:** Debbie Personal  
**To:** [JWMPS Exhibits](#)  
**Subject:** James D. Miley Testimony on HB 2721 Hearing Monday at 3 p.m.  
**Date:** Thursday, June 08, 2017 1:32:44 PM  
**Attachments:** [Scan0008.pdf](#)  
**Importance:** High

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I am an employee of the Region 2 Stripping Crew of ODOT. Our crew is a specialized crew that utilizes a moving work zone to put down legends and stripping to provide for the motoring public's safety.

On June 20<sup>th</sup> of this year while performing my job I was assaulted by a member of the public who was upset that we were impeding traffic. He had not waited more than 30-40 seconds before becoming angry. The assailant's vehicle violated the work zone by trying to go around into oncoming traffic on a narrow two-way bridge and ran over one of our cones pushing it into the opposite lane. In the course of trying to get them in behind me to lead them across the bridge and pick up the cone they had knocked over so that oncoming traffic could get by, I was approached by two males from the vehicle and verbally abused before one of them physically attacked me. I was beaten about the head, face and shoulders multiple times and fell to the ground and beaten some more. I was left at the scene by my assailant and his passengers. As my crew was working ahead of me and not in my sight they were unaware of what had happened. I was able to get to the truck and radio for help, and the assailant was ultimately charged with Assault 4 which is the lowest misdemeanor available under the law. Currently from what I understand there is no law in the books that would have automatically allowed the

officer to charge him with a felony unless I was assaulted with a weapon, received serious permanent injuries, or if I was a Police Officer, Animal Control Officer, Corrections Officer or a fireman.

Initially following this incident, the Lane County DA's office was not even going to move forward with the charges as there were no witnesses for my defense. However, after a lot of persistence in obtaining documents regarding his prior arrest history, and meeting in person with the Elected District Attorney, Patty Perlow, they agreed to relook at it. It is now assigned the Eric Hasselman, Deputy DA in Lane County and he took it to grand jury who came back with an indictment for Assault 2 which is a felony. But I had to fight 3 months for this, and had the current law included to Public Servants that have contact daily with the public and in a role to provide public safety services it would have been an automatic Felony no questions asked. I am a 68-year-old grandfather with 15 grandchildren and 3 great grandchildren who deserves to go home safely from my job every day.

Since my incident, we have lost 2 ODOT highway workers, had two more incidents of close calls on my own crew, and just recently two more injuries of highway workers on I5. When is it enough to value our lives enough to warrant a felony charge to deter this continuing behavior by some members of the public.

I believe this law in tandem with a public service campaign could in fact help save the lives of highway workers.



Oncoming Car

ODOT Paint Crew

Jims ODOT Truck

Bruce Vehicle

Bruce Vehicle paused before proceeding

Cones

Cone Knocked over by Bruce Vehicle

1994

Imagery Date: 7/7/2013 43°45'16.90" N 122°31'33.66" W elev 1055 ft eye alt 1347 ft

Google Earth



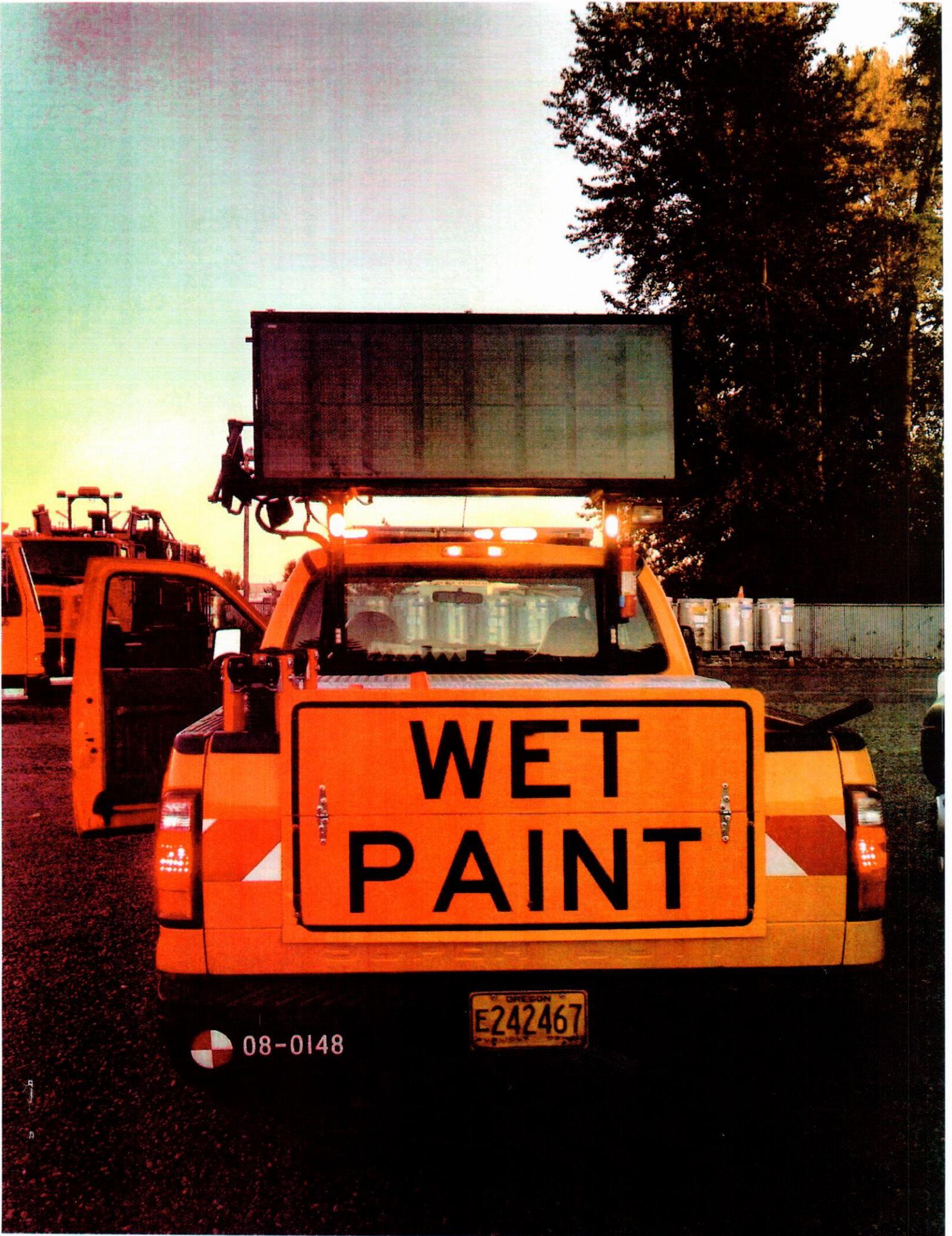
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## 2015 ORS 811.231<sup>1</sup>

### Reckless endangerment of highway workers

- penalties

- (1) A person commits the offense of reckless endangerment of highway workers if the person drives a motor vehicle in a highway work zone in such a manner as to endanger persons or property or if the person removes, evades or intentionally strikes a traffic control device in a highway work zone.
- (2) Reckless endangerment of highway workers is a Class A misdemeanor. In addition to any other penalty, a person convicted of reckless endangerment of highway workers is subject to suspension of driving privileges as provided in ORS 809.411 (Suspension for conviction of crime) (6). [1995 c.253 §3; 1997 c.83 §4; 2001 c.176 §7; 2003 c.402 §38]

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<sup>1</sup> Legislative Counsel Committee, *CHAPTER 811—Rules of the Road for Drivers*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors811.html](https://www.oregonlegislature.gov/bills_laws/ors/ors811.html) (2015) (last accessed Jul. 16, 2016).