

House Bill 4065 Testimony

Submitted by Hon. Ron McDermid

Elected Sherman County Justice of the Peace

Personal Testimony

February 20, 2020

To The Senate Committee on Judiciary

Dear Chairman Prozanski and Vice Chair Thatcher,

This is my personal testimony regarding HB 4065. As a Justice of the Peace who often handles traffic matters, I am opposed to HB 4065 in its original form but supportive of the amended version HB 4065-2 introduced by Senator Roblan. The most rewarding part of being a Justice of the Peace to me is the opportunity to help people learn from their mistakes and make better decisions moving forward. I frequently impose penalties that take into account the challenges that the person is facing, financial and otherwise.

My greatest concern regarding HB 4065 as drafted involves the likelihood that many defendants will be less likely to appear before the court, believing that they have little to lose by not addressing their violation offenses with the court. It has been stated or implied by proponents that compliance can be facilitated just as well through collection actions as through court facilitated compliance that includes the ability to suspend the driving privilege through ORS 809.210. My experience with both methods leads me to conclude with confidence that the collections process is woefully inadequate as a tool for facilitating compliance.

Courts have many opportunities to facilitate the defendant's compliance with insurance and equipment issues that are not possible without direct contact with the court. If I don't get these people into the courtroom I cannot actively facilitate the best possible outcome for them. Examples of this process in practice include setting fines at the lowest possible levels allowed under Oregon law, and allowing payments at levels that are within the person's capacity to pay.

A number of years ago courts were required to deal with laws that included a violation surcharge and a severely limited statutory authority to lower fines. These constraints greatly limited the ability of courts to provide innovative solutions, especially when defendants faced multiple convictions. While there is still room for improvement in the options that courts can utilize in dealing with folks of limited means who need to be able to drive, courts are participating in training exercises and sharing dialogue that indicates that significant progress is being made.

A point that I am reluctant to raise but none the less feel obligated to is that of fiscal impact. While projected losses of revenue can be hard to quantify, a number of courts are conservatively estimating a likely loss of revenue in the range of 20% to 30% of total revenue. I do not believe that an adequately comprehensive fiscal impact study has been conducted and I respectfully request that the committee consider commissioning one.

Finally, during my years on the bench I have learned quite a bit about human nature, as it applies to traffic compliance. If persons are held accountable they are likely to comply with the court ordered penalty for being convicted of a violation. If they perceive that they will not be held accountable, many folks will be far less likely to become or remain compliant. If the original version of HB 4065 passes I fear there will be more people than ever who are emboldened to ignore their court obligation, not due to an inability to pay, but due to their own willful noncompliance. There are many alternatives to this legislation that have not been considered and I encourage this body to explore alternatives to the repeal of ORS 809.210 that will assist those vulnerable segments of our population without the unintended negative consequence that the original HB 4065 brings with it.

Thank you for the opportunity to submit testimony to this body.

Hon. Ron McDermid

Sherman County Justice of the Peace