



## SENATE MAJORITY OFFICE

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### NEWS RELEASE

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#### **Senate votes to close Oregon's 'vehicle theft loophole'**

*HB 2328: Modifies mental state necessary to prove Unlawful Use of a Vehicle*

SALEM – Car thieves will have one less defense to hide behind under a bill that passed in the Oregon Senate and is on its way to Gov. Kate Brown for her signature.

[House Bill 2328](#) – which passed with a 28-0 vote on the Senate floor today – modifies the mental state necessary to prove a person committed the crime of Unlawful Use of a Vehicle. Instead of proving a defendant knew, most often by personal admission, that they didn't have permission to use a motor vehicle, this bill will make it so that the state needs to prove just that the defendant knowingly took control of another person's vehicle and was aware of and consciously disregarded a substantial risk that the owner of the vehicle didn't consent. Currently, car thieves can claim easily they thought they had permission to use the vehicles they stole.

"Police in my district report that car thieves have become shrewd about what to say when they encounter police," said Laurie Monnes Anderson (D-Gresham), who was a chief co-sponsor of the bill. "In Gresham, for example, officers regularly encounter suspects in cars with clear evidence of theft who merely claim to be 'borrowing' the vehicle from a friend or acquaintance. In such cases, even when an arrest is made, police officers are regularly frustrated to learn that the suspect was released from jail days or even hours after the arrest due to insufficient evidence under the new mental state burden, as defined in court. Without an affirmative statement from the suspect demonstrating that they knew they didn't have permission to use the car, prosecutors are unlikely to take the case as it is unlikely to win in court. This is Oregon's so-called vehicle theft loophole."

In prosecuting Unlawful Use of a Vehicle – which frequently involves allegations of stolen cars – the state must prove beyond reasonable doubt the defendant knows the vehicle is being operated without the owner’s consent. While a judge or jury may base a conviction on reasonable inferences drawn from circumstantial evidence, the Court of Appeals has concluded that may not be enough to convict. This sets an extremely high bar for determining culpability in car theft cases. This bill fixes that issue and closes the loophole that many car thieves exploit to get off the hook for their crimes.

Car thefts have been on the rise in Oregon in recent years. Clackamas County saw a 78-percent increase in Unauthorized Use of a Vehicle cases between 2015 and 2017, Monnes Anderson said, while cases doubled in the city of Gresham. According to one study, Portland and Gresham have the fifth- and eighth-highest rates of car thefts in America, respectively, out of cities with populations of at least 100,000 people.

In addition to removing the burden of proof that the defendant admits to knowing they do not have permission to use the vehicle in the case, the bill also provides that a person who knowingly rides in another person’s vehicle without the owner’s or authorized user’s consent also is guilty of Unlawful Use of a Vehicle if the person knew, at the time, that the owner or authorized user did not consent.

“This is a good bill that will help hold more people who steal cars accountable for their actions,” said Sen. James Manning (D-Eugene), who carried the bill on the Senate floor today. “When people commit crimes like these, they shouldn’t just be let off the hook by saying they didn’t know, when they did or should have. This bill is fair and will hold people accountable when they attempt to take things that aren’t theirs.”

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