

HB 4161 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 2/20

WHAT THE MEASURE DOES:

Modifies the crime of unauthorized use of a vehicle. Modifies the culpable mental state for the crime of unauthorized use of a vehicle when a person takes, operates, exercises control over or otherwise uses a vehicle, boat or aircraft without the consent of owner.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In prosecutions for the unlawful use of a vehicle, the prosecutor must prove beyond a reasonable doubt that 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 Oregon Court of Appeals in *State v. Korth* (2015) has concluded that certain fact patterns "require[] the stacking of inferences to the point of speculation." Because it is difficult to prove what a person's mental state is in court, some counties are experiencing an increase in the number of acquittals in these cases and are, as a result, prosecuting fewer stolen car cases.

House Bill 4161 reduces the required mental state and allows a conviction for the unlawful use of a vehicle if a person takes, operates, exercises control over or otherwise uses a vehicle, boat or aircraft without the consent of owner.