

AUTOMOTIVE

Oregon Men's PAC Why Taking Our Drivers' Licenses Is Bad Law

The 68th Oregon Legislature passed a new law that will suspend drivers' licenses for "failure to pay child support". It is effective September 9th, 1995.

There isn't enough space here to explore all the pros and cons of this proposal. Besides the common sense question echoed by Rep. Luke on the floor of the House -- "If they can't drive how are they supposed to work and make a living?" -- it's unfair and it's unconstitutional. That's already been decided by the high courts of this great state.

Anytime you mess with fundamental liberties, you risk the heightened scrutiny of the 14th Amendment: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The fundamental problem of equality as we see it is very plain but rarely addressed: the same piece of paper that says we have to pay child support also says the other parent has to let us see our kids. But the state has selectively decided which part of our court orders it will enforce, the part with the money in it. The other kind of support, the emotional kind we and our children are very interested in, is disregarded. And that kind of support has been upheld repeatedly as a liberty interest, too.

Back to HB 2357. It is not law to suspend or withhold licenses for being behind in your child support. You are prevented from even getting a hardship permit. This is a harsher penalty than if you are convicted of driving drunk. What is the logic besides wanting to punish?

It is often overlooked by many of the opposing viewpoint who testified at public hearings for this bill that this already has the power under law to put us in prison (nonsupport

has been a Class C felony since 1971) and take everything we have of value. This government needs to start finding out why the money isn't being paid. Justice Riggs of the Oregon Court of Appeals used to be the presiding judge in Multnomah County. In a mid-80's interview for a Willamette Week article called "Men on Trial", he told the reporter that the vast majority of men being prosecuted for not paying child support in his courts simply had no money.

Back to "unconstitutional".

In 1971 the United States Supreme Court's decided in *Bell v. Burson* that, regardless of whether viewed as a right or a privilege, a driver's license is a valuable entitlement that cannot be suspended or revoked without providing the license holder his procedural due process of law as required by the Fourteenth Amendment. Due process in this context requires that, prior to any suspension, the license holder has to be given a notice of intent to suspend

and notice of the availability of a hearing. Also, due process requires that, if requested, the licensee must be given a hearing "appropriate to the circumstances" prior to any suspension.

In 1976 our Court of Appeals recognized *Bell v. Burson* in *Floyd v. Motor Vehicles Division*. It echoed much of the above protections. Floyd added that a government agency cannot "unilaterally determine facts decisive of important entitlements" if it is going to operate consistent with due process.

1973's *Josephine Co. Sch. Dist. v. OSAA* included a footnote which quoted the U.S. Supreme Court in *Kent v. Dulles* (1947). In discussing the right to travel, the highest court of the land observed: "Freedom of movement is basic to our scheme of values", and is a liberty that emerged as early as the Magna Charta. It's a trademark of all free societies.

State v. Norton, (1982) distinguished *Bell* in this way:

"[The] United States Supreme Court has recognized that a licensee has a substantial personal interest in his license to operate a motor vehicle and that loss of that license can work a great hardship."

In *State v. Cowie* (1985), the Oregon Court of Appeals noted that the State had correctly conceded that a driver's license is a protected property interest. In *State v. Jones* (also in 1985), the State conceded that a driver's license is a "significant private interest", and is protected by the Due Process Clause. The U.S. Supreme Court agreed previously in *Mackey v. Montrym*, and that view is echoed in Oregon's *Boykin v. Ott* (1972.) The Oregon Men's PAC proposes, in conclusion, that there are better ways to get votes than on the backs of men who are already doing all they can. The solution is to make this system available to all the good people of Oregon who have the misfortune, not of their own doing, of losing their jobs or becoming disabled, whatever

makes their paychecks disappear. The current system penalizes your fellow man just because he can't afford a lawyer.

If our lawmakers are truly serious about collecting support for the children of this and other states, they will build in effective due process safeguards that will make the Child Support Collection Machine easily accessible to people whose biggest crime is being poor.

Perhaps the most important question of all is this: if we continue to let Oregon Legislature pass new child support laws, and they go out and get all that back child support we allegedly owe our ex-wives, are they also going to get us that time with our children those same women refused to let us have?

We didn't think so. And that's the whole point.

Oregon Men's PAC, 13606 SE McLoughlin #2, Milwaukie, Oregon 97222, Phone: 794-0858, Fax: 794-0493

Unique Oregon Traffic Signs To Come Down

Only in Oregon will you find signs posted at certain intersections that read "right turn permitted without stopping." But those signs will not be in place much longer, according to state traffic engineer Brant Williams.

"These signs are a true Oregon anomaly. To our knowledge, no other state ever used this kind of control, and now, with more motorists from out-of-state visiting than ever before, we're concerned that visitors may become confused by the signs," Williams said.

Although the signs have a long history in Oregon, they have never received approval or recognition by the federal government.

"We have documentation of intersections allowing right turns without stopping, dating back to the 1940s," Williams said. "In 1985, ODOT (Oregon Department of Transportation) conducted a study of the signs' effectiveness in order to gain federal approval, but unfortunately the Fed-

eral Highway Administration decided against adopting them as a national standard in the Manual of Uniform Traffic Control Devices."

Williams said there are some inherent problems with using the signs.

"Even though the signs do provide a convenience to motorists, they do not clearly define the proper right-of-way for drivers approaching an intersection from other directions. This can also cause confusion for pedestrians and bicyclists using the intersection. Motorists viewing one of these signs with the accompanying stop sign are presented with conflicting messages. Safety considerations demand that every sign we place in an intersection be as clear and easy to understand as possible," Williams said.

The state is allowing three years for the signs to come down.

"ODOT has adopted a policy of removing all existing signs and we are encouraging cities and counties to do the same," Williams said. "We're

doing our best to make Oregon's traffic controls consistent within the state as well as with other states around the country."

Meanwhile, Williams is hoping that local motorists will take heed when the signs in their areas come down.

"We're very much concerned that local drivers who are used to the signs may continue to make uninterrupted right runs, even after the rules change," Williams said. "Even though most of these signs are in low-traffic areas, we want to make sure that motorists respond well and don't end up being ticketed for failure to obey a stop sign."

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