



the heavily-used Deschutes River reservation straddles many miles of State Highway 26 from the crest of the Cascade Mountains on the northwest to the bridge over the Deschutes on the southeast. Highway 26 is a major thoroughfare between Portland and central Oregon.<sup>4</sup>

A tribal officer driving north on Highway 26 inside the reservation observed suspicious activity inside a southbound vehicle.<sup>5</sup> The tribal officer reversed course, following the car and its two occupants. The observed car crossed the centerline of the road into the oncoming traffic lane of travel while still within the reservation.<sup>7</sup> The tribal officer activated his patrol car's overhead lights, but the vehicle did not respond.<sup>8</sup> The car crossed over the Deschutes River on a bridge straddling the reservation on the west bank and Jefferson County on the east.<sup>9</sup> The tribal officer continued the pursuit into Jefferson County, where the car stopped.<sup>10</sup>

The passenger fled the scene.<sup>11</sup> The driver, Kurtz, was arrested by the tribal police officer for two crimes defined by state law: attempting to elude a police officer<sup>12</sup> and resisting arrest by a peace officer.<sup>13</sup><sup>14</sup> The Tribal Court denied the defendant's motion for judgment of acquittal,<sup>15</sup> but the Oregon Court of Appeals reversed, holding that Kurtz could not be charged with either offense because the person he attempted to elude was not a police officer and the person who reported arrest he resisted was not a peace officer.<sup>16</sup>

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4. 2009 Traffic Volumes on State Highways, OREGON DEPARTMENT OF TRANSPORTATION [http://www.oregon.gov/ODOT/Traffic/docs/2009\\_TVT.pdf](http://www.oregon.gov/ODOT/Traffic/docs/2009_TVT.pdf) (last visited April 2, 2011). The Oregon Department of Transportation reported that in 2009, 5,900 vehicles passed a point on Highway 26 on the bridge at which the events Kurtz occurred.

5. Kurtz, 228 P.3d at 584. .

6. Id.

7. Id.

8. Id. .

9. Id.

10. 228 P.3d at 584.

11. Id. .

12. OR. REV. STAT. § 811.540 (2011).

13. OR. REV. STAT. § 162.315(2011).

14. 228 P.3d at 584..

15. Id. at 590..

16. Id. .

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The Court of Appeals<sup>16</sup> correctly identified its task as one of interpreting the meaning of statutory phrases "police officer" and "peace officer." In describing the framework it would apply to interpreting the two statutes, the court<sup>17</sup> did not cite *BOLI*,<sup>17</sup> but it did cite *State v. Gaines*.<sup>18</sup> The Court characterized *Gaines* as requiring it to analyze text first, then context, and then any relevant legislative history.<sup>19</sup> Applying this framework, the Court first examined the text of the statutes surrounding the particular laws in which the scrutinized cases appeared, and then applied the principle of *eiusdem generis*.



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by the Legislature's professional drafting attorneys to form and style standards applicable to amendments in the Oregon Legislature. And even if one or more of the participants in the working group were to provide a committee with an account of the working group's deliberations, the Oregon Courts have occasionally signaled that the views of advocates for or against a bill generally are not to be accorded much weight.<sup>24</sup> SB 412's fate, like that of Mr. Kurtz, was unknown at the time this note was written. As described in this note, Mr. Kurtz's exposure to criminal conviction, and SB 412's interpretation should it ultimately become law, both depend on an interpretative structure that can be as blind to reality as it is useful in application.

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<sup>24</sup> See *State v. Guzek*, 906 P.2d 272, 282 (1995) (views of one witness do not evidence the general intent of the Legislative Assembly); *Stamper*, 106 P.3d 172, 178 (2005) (Court hesitant to ascribe to the Legislature as a whole the single remark of a single nonlegislator at a committee hearing); see also *Fast v. Moore*, 135 P.3d 387, 391-92 (2006) (reasonable to assume legislature adopted understanding of the bill where witness represented organization that drafted the bill and testimony was uncontradicted); *Corp. v. West Painting*, 906 P.2d 809, 814-15 (1995) (legislative intent voiced repeatedly by bill's sponsors and was not contradicted by a member of the legislature).