

## JOINT CONFERENCE COMMITTEE ON SB 115

June 30, 1999 Hearing Room 343

2:00 p.m. Tapes 1 - 2

**MEMBERS PRESENT:** Sen. John Lim, Chair

Rep. Tom Butler

Rep. Randall Edwards

Sen. Bill Fisher

Sen. Avel Gordly

Rep. Mark Simmons

Rep. Carl Wilson

**MEMBER EXCUSED:**

**STAFF PRESENT:** Carol Rives, Administrator

Nancy Masee, Administrative Support

**MEASURE HEARD:** SB 115B Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 1, A		
004	Chair Lim	Opens meeting at 2:07 p.m. Explains that the purpose of the conference committee meeting is to consider proposed amendments to SB 115B. Opens work session on SB 115B.
<u>SB 115 WORK SESSION</u>		

009	Carol Rives	Committee Administrator. Gives background on SB 115B. Explains that the ñ16 amendments prevent the Oregon Liquor Control Commission (OLCC) from licensing a retail agent to sell wine and malt beverage of less than 15 percent alcohol. Statute now allows OLCC to authorize package store licensing in a retail agents' license. The ñ16 amendments would sunset in two years. States that the ñ17 amendments delete Sections 8 and 9 which allow retail agents to deliver distilled spirits to OLCC licensee customers. Explains that there is a 1999 OLCC budget note that may be affected by the ñ16 amendments.
049	Chair Lim	Asks who proposed the ñ16 amendments.
050	Rives	Responds Rep. Wilson, at the request of package store owners.
053	Mark Nelson	Representing 7-11 stores. Explains the amendments by Rep. Wilson and the reasons for the sunset limit of two years.
065	Gary Oxley	Representing Fred Meyer, Safeway Stores, Inc., and Oregon Neighborhood Stores Association. Agrees with Nelson and supports the ñ16 amendments.
077	Rep. Butler	Discusses OLCC 1999 budget note number one. Suggests the budget note not be implemented.
120	Sen. Gordly	Asks for a copy of the budget note.
139	Rep. Wilson	Notes that OLCC may, by administrative rule, authorize OLCC agents to sell beer and wine. Says the sunset clause prevents such authorization during the interim.
145	Chair Lim	Asks for questions.
148	Barbara Hutchinson	OLCC. Explains the commission does not wish to change the status quo.
150	Chair Lim	Asks if it is true that the ñ16 amendments would not change the status quo.
151	Hutchinson	Responds that is correct.
152	Brian Boe	Representing the Oregon Retail Liquor Association. Explains that liquor agents understand that OLCC will not authorize liquor stores to implement beer and wine sales this biennium. Agrees with Rep. Butler that this language should not be in statute, but be put in the budget note. Comments that the system of retailing distilled spirits in Oregon is not customer friendly and does not adequately compensate store operators. Suggests that Oregon needs a meaningful reform of how liquor is sold.

194	Rep. Butler	Discusses the budget note and OLCC's proposed plan. Concerned with adding to the statute by these amendments.
258	Rep. Wilson	Asks whether the package store owners feel the -16 amendments would be useful and follow the intent of the work group.
266	Rep. Edwards	Asks what the status of the OLCC budget is now.
269	Rep. Butler	Responds the budget is being passed now. Reiterates his reservation of putting these issues in statute with a sunset date.
288	Rep. Wilson	Discusses budget note number one and comments that it is a very complicated mechanism to increase compensation to retail agents.
300	Rep. Butler	Recalls that there have been continued requests to discuss compensation received by the distilled spirits stores.
344	Sen. Gordly	Asks if the budget note intent is to cause state liquor business to increase.
349	Rep. Butler	Responds it was not the intent to increase growth in the state liquor business, but to protect the current general fund revenue without interrupting the level of sales of distilled spirits.
356	Sen. Gordly	Asks if OLCC is expanding the market.
359	Rep. Butler	Responds that some areas are underserved due to location or other issues.
386	Sen. Fisher	Comments on the issues and asks about expanding growth of sales.
395	Brian Boe	Comments on the need to expand agency responsiveness to customers' convenience and demands, and to meet new markets in a customer- friendly manner. Explains OLCC is prohibited from advertising and has other restrictions against promotion of product.
<b>TAPE 2, A</b>		
015	Fisher	Asks how the budget note relates to the amendment.
019	Boe	Comments that it does not relate to the amendment. Adds that the package stores wanted the protection of the sunset clause. Adds that he does not feel that the agency will attempt change during the interim.
031	Oxley	Emphasizes the concern is that changes could be made by rule and that the

		<p>sunset of two years will provide protection for that period. Says the 7-11 stores do not want to sell distilled spirits, and that the amendment by Rep. Wilson will ensure the status quo.</p>
044	Sen. Fisher	<p>Asks if setting a report due date of 2001 for the Emergency Board hearing would help.</p>
050	Oxley	<p>Says it would be a welcome change, but does not alter the fact that OLCC has the authority to allow liquor stores to sell beer and wine.</p>
053	Rep. Simmons	<p>Asks if the OLCC budget has passed the Ways and Means Committee.</p>
058	Rep. Butler	<p>Responds, yes.</p>
059	Rep. Simmons	<p>Summarizes that the OLCC budget is on its way to the Governor and out of the committee's control. The only assurance that nothing happen in the interim is by good faith unless the 16 amendments are passed.</p>
077	Rep. Wilson	<p><b>MOTION: Moves to ADOPT SB 115B-16 amendments dated 6/28/99.</b></p>
078	Chair Lim	<p>Asks for any discussion.</p>
079	Rep. Butler	<p>Explains he was not a member of the work groups on the issue, but he will vote in favor of the amendment, expecting further study will follow.</p>
078		<p><b>VOTE: 8-0</b></p>
079	Chair Lim	<p><b>Hearing no objection, declares the motion CARRIED.</b></p>
080	Chair Lim	<p>Asks for an explanation of the 17 amendments.</p>
081	Rives	<p>Explains that the 17 amendments delete Sections 8 and 9 of SB 115B which allow OLCC agents to deliver liquor to their licensee customers.</p>
128	John Harold	<p>Lincoln City liquor agent. Opposes the 17 amendments. Discusses the low percentage of commission in liquor stores.. Discusses the fact that most agents are not in favor of this amendment, due to the delivery cost. Emphasizes most agents want to stay with the status quo and do not want to sell beer and wine.</p>
160	Vance Burkhart	<p>Salmon Street Liquor Store agent, Portland. Explains concern that delivery would reduce profits on a sale by half, and that smaller agents will lose licensee</p>

		accounts to larger agents who can afford to pay for delivery service. Delivery would inject a competitive element that is otherwise prohibited.
117	Sen. Fisher	Discusses the profit margins and delivery charges.
231	Barb Hutchinson	Affirms the discussion by the agents in describing profit and charges. Explains that agents are prohibited by OLCC from advertising or promoting the sale of distilled spirits.
254	Sen. Fisher	Asks what this bill does. Asks if this could be changed by OLCC rule at any time. Asks if there is a charge for delivery.
260	Hutchinson	Responds agents could deliver under the bill, but could not charge.
262	Boe	Suggest that the agency could develop rules for delivery service.
280	Rep. Butler	Asks if there are deliveries presently.
281	Hutchinson	Responds that deliveries are made by commercial carriers hired by the licensee.
285	Rep. Butler	Asks if the fee for delivery could be charged and the charge could be paid by the bar or restaurant.
316	Harold	Responds they can already do that. Says that restaurants want the agents to deliver.
345	Harold	Continues that agents are not making deliveries presently. They hire delivery services now.
357	Rep. Simmons	Comments that some restaurants are willing to pay for delivery.
382	Burkhart	Offers personal experience of running a store to explain why delivery cannot be practical or profitable.
<b>TAPE 1, B</b>		
005	Harold	Explains the problems in delivering liquor by agents.
038	Rep. Wilson	Expresses concern for allowing delivery. Says it will cause competition that was not intended. Asks if there is any competition going on presently.
048	Burkhart	Says he does not know, but he has heard rumors.

053	Rep. Wilson	Asks if this has been a problem.
055	Burkhart	Responds that Harold had a problem.
057	Chair Lim	Asks what the average sales are.
059	Hutchinson	Says there are 234 liquor stores at this time. Comments with the passage of this amendment, at least one Portland store would close. Explains that there is a broad range in sales.
075	Chair Lim	Asks if delivery to restaurants and bars would cause some stores financial loss.
080	Hutchinson	Says, at this time, some small stores could fail if they were required to deliver in order to maintain customer base.
101	Chair Lim	Asks if big operators would take over the small businesses.
102	Hutchinson	Responds yes.
108	Sen. Gordly	Asks what specific store would be forced to close under this policy.
110	Hutchinson	Responds there is a store in the southeast Portland area.
112	Sen. Gordly	Requests that OLCC provide more details.
114	Bill Perry	Oregon Restaurant Association. Explains that members are willing to pay the delivery fee. Says the small restaurants do not have enough help to deliver. Says the Portland area has delivery services to hire.
136	Rep. Butler	Asks if the association objects to delivery by smaller agents for fees.
142	Perry	Responds that rules can address the issue of delivery fees.
152	Rep. Butler	Asks if the rules would allow flexibility about where restaurants may purchase their liquor.
164	Perry	Comments rules on territories and fees.
177	Hutchinson	Emphasizes that rule-making is a better process for these procedures, statute is not so easily changed.

178	Chair Lim	Explains that protecting small businesses is important. Wants to work during the interim on these issues. Rule-making is more flexible than statute changes.
179	Sen. Gordly	<b>MOTION: Moves to ADOPT SB 115B-17 amendments dated 6/30/99.</b>
180	Chair Lim	Asks for discussion.
181	Rep. Simmons	Suggests if this is not adopted, OLCC can draft rules and set fees.
182	Rep. Butler	Agrees.
183	Rep. Wilson	Supports the ñB17 amendments. Says the agents need to develop another profit center. Delivery will damage small businesses.
185	Rep. Edwards	Comments that small restaurants struggle as well as small liquor stores. Suggests a lack of efficiency with the ñ17 amendments. Without the ñ17 amendments, the legislators can watch what happens.
200	Chair Lim	Suggests moving with caution and studying the results and comments further that the current system is working. It can be fixed next session, if necessary.
230	Rep. Devlin	Agrees that there are efficiency problems.
240	Sen. Gordly	States that if there is a business in Portland that may go out of business, then details are needed about the negative impact of allowing delivery by agents.
245	Rep. Butler	Confirms that adoption of ñB17 amendments prevents delivery of liquor by stores.
		<b>VOTE:</b>  <b>AYE: 4 - Sen. Fisher, Sen. Gordly, Rep. Wilson, Sen. Lim</b>  <b>NAY: 4 - Rep. Butler, Rep. Devlin, Rep. Edwards, Rep. Simmons</b>
260	Chair Lim	<b>The motion Fails.</b>
280	Chair Lim	Asks for a motion on the bill.
281	Rep. Butler	<b>MOTION: Moves SB 115B to the floor with the recommendation that the Senate concur in House amendments dated 6/16/99 and that the bill be further amended by the</b>

		<b>-B16 amendments dated 6/28/99 and the measure be repassed.</b>
		<b>VOTE: 6-2</b>  <b>AYE: 6 - Rep. Butler, Rep. Devlin, Rep. Edwards, Sen. Fisher, Rep. Simmons, Sen. Lim</b>  <b>NAY: 2 - Sen. Gordly, Rep. Wilson</b>
282	<b>Chair Lim</b>	<b>The motion Carries.</b>  <b>SEN. LIM AND REP. EDWARDS will lead discussion on the floor.</b>
286	Chair Lim	Adjourns meeting at 3:10 p.m.

Submitted By, Reviewed By,

Nancy Masee, Carol Rives,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ SB 115B, -16 Amendments, Staff, 2 pp**

**B ñ SB 115B, -17 Amendments, Staff, 1 p**