

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

April 15, 2005 Hearing Room B

9:00 A.M. Tapes 91 - 92

Corrected 09/29/05

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Mike Schaufler, Vice-Chair

Rep. Paul Holvey

Rep. George Gilman

Rep. Derrick Kitts

Rep. Chip Shields

MEMBER EXCUSED: Rep. Sal Esquivel, Vice-Chair

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2814 – Public Hearing

HB 2815 – Public Hearing

HB 2180 – Work Session

HB 2181 – Work Session

HB 2790 – Public Hearing

HB 3006 – Public Hearing

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 91, A

002	Chair Brown	Calls the meeting to order at 9:14 a.m. Opens the public hearing on HB 2814 and HB 2815.
-----	-------------	--

HB 2814 AND HB 2815 – PUBLIC HEARING

008	Rep. Vicki Berger	House District 20. Speaks in support of HB 2814 and HB 2815. Talks about Willamette Valley Vineyards. Mentions that the wine industry has become an important part of the economic landscape in Oregon. Believes that HB 2814 and HB 2815 will help promote the growth of the wine industry in Oregon.
-----	-------------------	--

033	Jim Bernau	Willamette Valley Vineyards. Submits written testimony in support of HB 2814 (EXHIBIT A). Talks about how the vineyard encourages their customers to recycle the wine bottles and return the bottles to the winery. Notes that Oregon Liquor Control Commission (OLCC) has ruled that the vineyard cannot put a 10 cents refund on wine bottle labels. Believes that HB 2814 will allow wineries to state that there is a refund when used bottles are returned to the winery.
-----	------------	---

075	Rep. Schaufler	Asks if grocery stores and distributors are responsible for refunding the 10 cents when the wine bottle is returned.
-----	----------------	--

077	Bernau	States that grocery stores and distributors will not be held responsible.
-----	--------	---

078	Rep. Holvey	Asks if he can take his used wine bottles to any winery or if the wine bottle has to be taken to the winery of origin.
-----	-------------	--

082	Bernau	Says that participation in the program is voluntary.
-----	--------	--

091	Rep. Holvey	Asks if a person can return the wine bottles to any participating winery.
-----	-------------	---

093	Bernau	States that each winery could decide if they wanted to honor bottle refunds from other wineries.
095	Janet Adkins	Committee Administrator. Submits the HB 2814-1 amendments (EXHIBIT B) . Asks if the issue is over how the refund can be advertised.
097	Bernau	Indicates that the issue with the OLCC has been whether the refund can be advertised on the wine bottle label.
105	Chair Brown	Asks about “the credit towards future purchases at the winery” language that HB 2814 would allow on the wine bottle label.
109	Bernau	States that the -1 amendments corrects a drafting error that involved using the word credit. Speaks in support of HB 2815. Talks about the antioxidant Resveratrol. Wants to include the antioxidant on the wine bottle label for intrastate sales.
131	Greg Thomas	Submits written testimony in support of HB 2815 (EXHIBIT C) . Talks about the antioxidant Resveratrol. Notes that Resveratrol occurs in greater quantities in pinot noir wines from the Willamette Valley.
147	Bernau	Says that Willamette Valley Vineyards has had a major break through on the federal level. States that the federal government has approved the Resveratrol label.
166	Rep. Holvey	Asks if white wine contains Resveratrol.
169	Bernau	Says that smaller amounts of Resveratrol occur in white wine than in red wine. Talks about the French Paradox broadcast on 60 Minutes and how it helped the sales of wine. Explains why Resveratrol is so abundant in the Willamette Valley.
201	Rep. Holvey	Says that he believes that milk will not be the state beverage for long.
203	Bernau	Talks about the value of wine as compared to other agricultural products and states that wine has surpassed Christmas trees in income to the state.
209	Chair Brown	Closes the public hearing on HB 2815. Leaves the public hearing on HB 2814 open.

216	Paul Romain	Oregon Beer and Wine Distributors. States that the federal government has done the right thing in terms of recognizing Resveratrol. Speaks in opposition to HB 2814. Mentions that no restriction exists on giving a refund on the bottle, but the law does prohibit coupons being placed on alcoholic beverages for future purchases of alcohol. Asserts that HB 2814 is not needed, because every winery can advertise a refund on wine bottles.
274	Romain	States that only beer bottles and soft drinks mandate giving refunds on returned containers.
280	Chair Brown	Clarifies that refunds on wine bottles are permissible in Oregon.
282	Romain	Affirms statement.
286	Bill Cross	Willamette Valley Vineyards. Says that he did contact the OLCC and states that he sought amendments to replace the word credit with refund. Indicates that the OLCC said that they could probably put a refund on a wine bottle. Expresses concern about not clarifying Oregon law on this issue.
315	Rep. Schaufler	Asks if refund instead of credit will be put into HB 2814.
317	Cross	States that the word refund will be used.
319	Rep. Schaufler	Asks if the refund amount will be specific.
322	Cross	Says that the amount will not be specific and will not exceed ten cents.
327	Rep. Schaufler	Asks if the OLCC has seen the HB2814-1 amendment.
331	Cross	States that the OLCC received a hand engrossed version of HB 2814.
336	Chair Brown	Clarifies that the language in HB 2814 says not less than a 10 cents refund will be given.
338	Cross	Affirms the statements.
340	Jessie Lyon	

Davis, Wright, Termaine LLP. Talks about the concern with the OLCC's rules that addresses discount coupons and rebates on alcoholic beverage labels. Says that it is important to clarify a voluntary refund program in statute. References OAR 845.007-10

- 369 John Stubenvoll Communications Director, OLCC. Takes a neutral position on HB 2814. Says that they do not know whether a consumer would know that the wine bottle is not a part of the bottle refund program. States that the federal government approves the labels for containers with alcohol. Notes that an issue may exist concerning the increased workload for label approval at the OLCC. Asks the committee to allow the OLCC to take a look at the issue.
- 416 Chair Brown Asks if the federal government prohibits having refunds on wine bottle labels.
- 420 Stubenvoll Responds that he does not know what the position of the federal government will be.

TAPE 92, A

- 001 Chair Brown Closes the public hearing on HB 2814 and HB 2815. Opens the work session on HB 2180.

HB 2180 – WORK SESSION

- 010 Janet Adkins Committee Administrator. Explains HB 2180. Submits the -1 amendments (**EXHIBIT D**).
- 035 Mark Long Administrator, Building Codes Division. Speaks in support of HB 2180 with the -1 amendments.
- 042 Chair Brown Asks what the -1 amendment does.
- 043 Long States that the -1 amendments allow the Building Code Division to prioritize elevator inspections.
- 053 Rep. Schaufler Asks if everyone is happy with HB 2180.
- 055 Long Affirms that everyone is happy.

056	Adkins	Talks about how the Northwest Pulp and Paper Workers are in support of the -1 amendments.
060	Rep. Kitts	Wonders if the workers are happy with HB 2180.
064	Chair Brown	Advises the committee that HB 2180 has a subsequent referral to Ways and Means and that he intends to request that the referral be removed. Closes the work session on HB 2180 and opens the work session on HB 2181.

HB 2181 – WORK SESSION

071	Janet Adkins	Committee Administrator. Explains that HB 2181 also has a subsequent referral to Ways and Means. Explains HB 2181 and the HB 2181-1 amendments (EXHIBIT E).
093	Rep. Holvey	Comments on work of the work group. Says that agreement has been reached on HB 2181 and states that some of the technical issues could be addressed before it is reported out of committee.
106	Mark Long	Administrator, Building Codes Division. Says that HB 2181 will help create better customer service. Commends Rep. Holvey for his work with the work group and Legislative Counsel for drafting the -1 amendment and states they would like to work on a couple of words in the bill. Says that there is no fiscal impact.
135	Rep. Schaufler	Asks what two words are being changed.
137	Long	Says on page two, in line 21 of the HB 2181-1 amendments, “building officials” will be added.
145	Rep. Schaufler	Asks if those are the only two words that need to be changed before HB 2181 is sent to Ways and Means.
148	Long	States that those are the only two words that need to be added.
150	Adkins	Asks about the standardization of language. Notes that the language on the first page in line 16 of HB 2181, it still says licensing, certification or registration.
155	Long	

States that they had to use the broad terms and says that they still wanted those words in HB 2181.

166	Rep. Kitts	Asks if section two in the original HB 2181 has been moved to another section or if it has been taken out.
179	Long	Believes that pages two through 65 are being deleted in the original HB 2181.
187	Rep. Kitts	Reads section two of the original HB 2181. Says that the language in the amendment is completely different. Asks if section two has been renumbered anywhere in HB 2181.
205	Long	States that he did not see it anywhere in the amendments.
218	Rep. Holvey	Talks about how the owner and operator do not always have a construction contracting license. States that Legislative Counsel was concerned that section two of the original HB 2181 would forbid people from suing when they in fact should be able to sue.
226	Rep. Kitts	Says that his concern with section two was people's ability to seek legal recourse.
230	Chair Brown	Says that the committee will not move HB 2181 today.
233	Rep. Kitts	Wants the amendments to be written before it is sent out of the committee.
248	Chair Brown	Says that is the intention of the committee.
252	Adkins	Mentions section 14 may be the new section two.
259	Long	Says that it looks like a reworking of existing law.
263	Rep. Kitts	States that section 14 is not all bolded like section two of the original HB 2181 was.
264	Long	Indicates that he will have to look at the law. Emphasizes that the intent of HB 2181 was not to change policy.

270	Chuck Taylor	Legislative Counsel. Talks about the -1 amendment and says that it just reflects terminology changes.
296	Rep. Kitts	States that he will look at HB 2181 more closely.
302	Jerod Broadfoot	Oregon State Building and Construction Trades Council. Thanks Rep. Holvey for his hard work. Speaks in support of HB 2181. Wants the referral to Ways and Means to be rescinded.
320	Chair Brown	Closes the work session on HB 2181 and opens the public hearing on HB 2790.

HB 2790 – PUBLIC HEARING

330	Rep. Patti Smith	House District 52. Speaks in support of HB 2790. Talks about her experience with chiropractors and the positive experience that she had when seeking treatment from a chiropractor. Mentions that HB 2790 improves the oversight of chiropractors in Oregon.
	Bob Olson	Submits written testimony without oral testimony in support of SB 2790 (EXHIBIT H) .
395	Michael Mason	Oregon Doctors of Chiropractic. Submits written testimony and speaks in support of HB 2790 (EXHIBIT J) . Introduces Dr. John Schmidt and Dr. Roger Setera.

TAPE 91, B

030	Roger Setera	Chiropractor and Vice Chair, Oregon Doctors of Chiropractic. Submits written testimony in support of HB 2790 (EXHIBIT G) . Believes that greater access to chiropractors will lower the cost of workers' compensation claims. Adds that it will also improve the health and well-being of workers in the state.
051	John Schmidt	Chiropractor and President, Oregon Doctors of Chiropractic. Submits written testimony, a summary of five studies, in support of HB 2790 (EXHIBIT F) and the five studies summarized in his statement about the effectiveness of chiropractic care (EXHIBIT I) . States that current studies show chiropractic care as being cost effective. Talks about the benefits of chiropractic services over treatment through drugs and/or surgery.

100	Schmidt	Says that 90 days is an adequate period of time to deal with a back strain. Asserts that the numbers regulating how many times a person can see a chiropractor does not have a practical scientific basis. Notes that current law only allows chiropractors to treat simple strains.
150	Schmidt	Notes that chiropractors are better equipped to deal with skeletal-muscle problems than physicians.
161	Chair Brown	Asks how legislators determined the length and amount of time a person with a worker's compensation claim could seek treatment from a chiropractor.
165	Schmidt	Gives history of the legislation, starting in 1998. Says that the State Accident Insurance Fund (SAIF) came to them complaining that chiropractors were two and one-half times as expensive as other physicians. Talks about how he and other chiropractors refuted SAIF's claims.
205	Setera	States that the statistical parameters of chiropractic cost were different than the physicians, because the cost for chiropractors was bundled while the other physicians' costs were not. Notes that 40 chiropractors were abusing the workers' compensation system and they were asked to stop. Adds that 1100 chiropractors were not abusing the system.
220	Schmidt	Notes there is an evaluation of the SAIF study in Section 8 of the book (EXHIBIT I, pages 213 – 231).
240	John Shilts	Administrator, Workers' Compensation Division. Submits and summarizes written testimony in opposition to HB 2790 (EXHIBIT K). Says that the Workers' Compensation Division has been able to save money for workers while decreasing the cost to employers. States that the time that workers are spending away from work has been reduced. Believes that current treatment and safety regulations have benefited workers. Notes that the time a worker spends away from work is important as is their wage recapture ability after treatment.
290	Shilts	States that the committee has HB 2588 which would consider the cost effectiveness of chiropractic services.
310	Rep. Schaufler	Asks if HB 2588 is the bill that chiropractors requested.

313	Shilts	Affirms that it is.
315	Rep. Holvey	Asks if physical therapists are required to operate under attending physician laws for workers' compensation purposes.
318	Shilts	Says that oversight must be given by an attending physician when workers go to physical therapists.
330	Rep. Holvey	Asks how long a plan for physical therapy can last and how often the plan is reviewed by the attending physician.
335	Shilts	States that he does not know if there is a time limit on physical therapy plan evaluation and says that the physical therapy plan does need to be reviewed periodically.
343	Rep. Holvey	Asks if a set amount of days exists in which the attending physician must review the physical therapy plan.
345	Shilts	Offers to get the information for the committee.
352	Lisa Trussell	Associated Oregon Industries. Speaks in opposition to HB 2790. States that in 1990 Oregon successfully resolved workers' compensation issues for employees and employers. Notes that the Management Labor Advisory Committee has not approved HB 2790. Says that chiropractors can continue to treat the patient if they have oversight by an attending physician.
400	Trussell	Encourages chiropractors to get involved with a managed care organization.

Tape 92, B

001	Trussell	Notes that those workers' compensation claims that were dealt with by chiropractors had the greatest time-loss days authorized.
006	Chair Brown	Closes the public hearing on HB 2790 and opens the public hearing on HB 3006.

HB 3006 – PUBLIC HEARING

010	Janet Adkins	Committee Administrator. Explains HB 3006.
024	Rep. Steve March	House District 46. Speaks in support of HB 3006. Says that HB 3006 is an attempt to clarify the relationship between contractors and state employees. States that Oregon's conflict of interest laws are "toothless". Mentions that, when he worked in California, he filed a conflict of interest statement and notes that there was follow up on conflicts of interest.
066	Rep. Kitts	Asks about direct familial relationships between private contractors and state employees.
080	Rep. March	Says that it would apply if it is a state employee and not if it is a county employee.
087	Rep. Holvey	Asks why HB 3006 is limited to state employees only.
091	Rep. March	Wants to focus on the issue brought to him which involved state employees. Offers to work with committee members to address additional concerns.
102	Dugan Petty	Deputy Administrator, Department of Administrative Services. Submits written testimony which takes a neutral position on HB 3006 (EXHIBIT L) . Says that the public contracting procurements should be held to the highest standards, but cannot support the bill how it is currently written. Expresses concerns about the broadness of HB 3006. States that current ethics law is administered by the Government Standards and Practices Commission and HB 3006 would be administered by the contracting agency involved.
163	Jessica Harris Adamson	Associated General Contractors. Says that they have significant concerns with HB 3006 as it is currently written. Agrees that the contracting process in the state needs to "be above board". States that in Southern Oregon there may only be one contractor available for the state and private sector. Supports the spirit of HB 3006.
217	Chair Brown	Closes the public hearing on HB 3006 and reopens the public hearing on HB 2790.

HB 2790 – PUBLIC HEARING

223	Rep. Dennis Richardson	Attorney and House District 4. Speaks in favor of HB 2790. Talks about the late 1980s and early 1990s when chiropractic treatment was reduced and says the conflict was between the medical physicians and chiropractors. Believes that people who needed chiropractic treatment lost this battle. Says the cost for chiropractic treatment is lower than other medical costs in the treatment of back injuries. Asserts that there is a place for chiropractic treatment in helping injured workers to heal.
287	Chair Brown	Closes the public hearing on HB 2790.
295	Janet Adkins	Committee Administrator. Submits written testimony in support of HB 3272 on the behalf of Ransford S. McCourt, Peter L. Coffey, and Carl D. Springer (EXHIBIT M). (NOTE: Public hearing was held on April 8th, 2005).
300	Chair Brown	Adjourns the meeting at 11:10 a.m.

EXHIBIT SUMMARY

- A. **HB 2814, written testimony, Jim Bernau, 9 pp**
- B. **HB 2814, -1 amendments, staff, 1 p**
- C. **HB 2815, written testimony, Greg Thomas, 1 p**
- D. **HB 2180, -1 amendments, staff, 4 pp**
- E. **HB 2181, -1 amendments, staff, 50 p**
- F. **HB 2790, written testimony, John Schmidt, 1 p**
- G. **HB 2790, written testimony, Roger Setera, 3 pp**
- H. **HB 2790, written testimony, Bob Olson, 1 p**
 - I. **HB 2790, informational packet, John Schmidt, 231 pp**
- J. **HB 2790, written testimony, Michael Mason, 1 p**
- K. **HB 2790, written testimony, John Shilts, 2 pp**
- L. **HB 3006, written testimony, Dugan Petty, 2 pp**
- M. **HB 3272, written testimony of Ransford S. McCourt, Peter L. Coffey and Carl D. Springer, staff, 2 pp**