

HOUSE COMMITTEE ON
BUSINESS, LABOR, AND CONSUMER AFFAIRS

May 20, 2005 Hearing Room B

10:00 A.M. Tapes 136 - 137

Corrected 09/30/05

MEMBERS PRESENT: Rep. Alan Brown, Chair

Rep. Sal Esquivel, Vice-Chair

Rep. Mike Schaufler, Vice-Chair

Rep. Paul Holvey

Rep. George Gilman

Rep. Derrick Kitts

Rep. Chip Shields

STAFF PRESENT: Janet Adkins, Committee Administrator

Katie Howard, Committee Assistant

MEASURES/ISSUES HEARD:

SB 618A – Public Hearing

SB 323 – 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
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TAPE 136, A		
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003	Chair Brown	Calls the meeting to order at 10:18 a.m. Opens the public hearing on SB 618A.
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SB 618A – PUBLIC HEARING

006	Janet Adkins	Committee Administrator. Explains SB 618A.
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025	James Lace	Pediatrician, Oregon Medical Association, Oregon Pediatric Society. Submits and reviews written testimony in support of SB 618A (EXHIBIT A) . Relates the health benefits to the baby and mother from breastfeeding. Discusses breastfeeding as a prevention of childhood obesity and type II diabetes.
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092	Rep. Kitts	Provides specific example of a business in his district, inquiring how the business would accommodate the requirements of the bill.
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108	Lace	Relates what mothers are doing presently, and the possibility of putting up a screen in one portion of the room.
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124	Rep. Diane Rosenbaum	House District 42. Submits and reviews written testimony in support of SB 618A (EXHIBIT B) . Notes the conflict between women returning to work three months after giving birth, and doctors recommending a baby be breastfed for twelve months. Lists other states that have similar laws.
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174	Rep. Holvey	Inquires how employers with outdoor jobsites will provide reasonable accommodation.
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180	Rep. Rosenbaum	Reiterates SB 618A does not require employers to provide accommodation if there is undue hardship on the employer. Mentions the bill also encourages employers to temporarily rotate breastfeeding employees to more accommodating positions.
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213	Cynthia Good Mojab	Lactation Specialist. Submits and reviews written testimony in support of SB 618A (EXHIBIT C) . Discusses the necessary paradigm shift of talking about the benefits of breastfeeding, to talking about the risks of formula feeding. Reports voluntary accommodation in the workplace for breast feeding mothers is rare. Talks about the negative affects of formula feeding. Mentions the social barriers to breast feeding.
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339	Rep. Esquivel	Questions who determines the definition of undo hardship.
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348	Mojab	Defers to Diane Garrett to address legal issues.
363	Martha Johnson	Registered Nurse and Lactation Consultant. Submits and reviews written testimony in support of SB 618A (EXHIBIT D). Relates findings on the health benefits of breastfeeding over longer periods of time. Comments on the financial savings to society. Notes companies who invest in breastfeeding support programs save three dollars for every dollar invested.

TAPE 137, A

002	Johnson	Continues testimony. Reports on her meetings with Associated Oregon Industries (AOI) negotiating SB 618A, and the resulting concessions in the bill. Notes a voluntary breastfeeding program already exists in Oregon.
020	Rep. Kitts	Requests confirmation only 40 businesses in Oregon participate in the voluntary breastfeeding program.
021	Johnson	Confirms less than 40 businesses participate.
023	Rep. Kitts	Inquires how many complaints have been registered by nursing mothers who are not being accommodated in their places of business.
034	Johnson	Relates anecdotal reports in her place of employment, Sacred Heart Hospital in Eugene.
043	Rep. Kitts	Questions whether there are related research statistics that indicate people are filing complaints.
053	Johnson	States there is no clearinghouse where women can file complaints, but studies show very clearly what the barriers are.
058	Rep. Kitts	References Lace's testimony, asking who will purchase the screen to provide privacy.
069	Johnson	Relates the bill's requirement the employer provide a room or location.
073	Rep. Schaufler	Discusses his wife's accommodation for herself in her own office. Believes the logistics of SB 618A are a concern to the committee.

101	Steve Lanning	American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). Speaks in support of SB 618A. Believes the bill has enough protections for employers. Notes this issue is not covered in many union contracts.
118	Sue Woodbury	Program Manager, Nutrition and Health Screening, Department of Human Services (DHS). Submits and reviews written testimony in support of SB 618A (EXHIBIT E). Lists the DHS initiatives that are supported by the bill.
154	Diane Garrett	Breastfeeding mother, volunteer peer counselor. Submits and reviews written testimony (exhibit f). States thinking about breastfeeding only in terms of economic viability is unprofitable. Relates appropriate thinking starts with a baby. Comments on the necessity of being intentional. Discusses AOI's resistance to policy that decreases flexibility and increases liability. Offers an amendment that develops a task force.
212	Rep. Schaufler	Inquires regarding actions of other states.
217	Garrett	Relates Minnesota's legislation passed in 1998. Notes Minnesota's breastfeeding rates have doubled. Discusses California's legislation which includes penalties for noncompliance.
231	Rep. Schaufler	Questions whether any of the 40 businesses participating in the voluntary DHS program are present.
239	Woodbury	Responds with respect to the Portland state office building.
251	Rep. Schaufler	Requests feedback from a for-profit business.
254	Garrett	Comments she extended an invitation to those businesses to attend the committee meeting. Reiterates the need to be intentional as a culture.
270	Julie Brandis	AOI. Submits and reviews written testimony in opposition to SB 618A (EXHIBIT G). Reviews the concepts of hardship and reasonableness and the necessity of guidance. Discusses the DHS program, which is not actively marketed to businesses. Relates details of the bill that need to be clarified. Discusses the necessity of employees notifying their employer of their needs prior to returning to work. Mentions the results of a survey taken of AOI members regarding their accommodations for nursing mothers. Recommended specific amendments to the bill.

442 Rep. Schaufler Comments if break time is pooled in the future he wishes it to be at the discretion of the employee, not the employer.

TAPE 136, B

002 Rep. Schaufler Inquires if any AOI businesses are present to address the bill and questions if Brandis has examined the policies of other states.

010 Brandis Reports no AOI member businesses are present. Relates she has reviewed the policies of other states, which are both more and less restrictive than SB 618A.

015 Rep. Kitts Notes there are neither penalties nor enforcement provisions.

021 Brandis Provides example of retail businesses that, by law, are required to provide the option of paper or plastic bags to shoppers, noting there is no enforcement of that law. Suspects the terms “reasonable” and “hardship” will probably be defined through a court case.

034 Rep. Kitts States it appears there would be no repercussions for an employer not in compliance. Inquires if an acceptable compromise would be to require the employer to follow the guidelines so long as no costs are incurred.

053 Brandis Reiterates the complications in determining how to comply with the confusing requirements, and the need to clarify the responsibilities of the employee.

The following prepared testimony is submitted for the records without public testimony:

Sen. Ginny Burdick Written testimony in support of SB 618A (**exhibit o**).

074 Chair Brown Closes the public hearing on SB 618A. Opens a public hearing on SB 323.

sb 323 – PUBLIC HEARING

077 Janet Adkins Committee Administrator. Explains SB 323. Submits the -5 (**EXHIBIT H**) and -6 amendments (**EXHIBIT I**). Mentions the Final Report of the Independent Contractors Task Force (**EXHIBIT J**).

112	Sen. Vicki Walker	Senate District 7. Speaks in support of SB 323. Discusses her participation on and the work of the Task Force for Independent Contractors. Comments on the need for caution regarding amendments other than the -6 conflict amendments.
205	Lisa Trussell	Associated Oregon Industries (AOI), Chair, Independent Contractor Task Force. Submits and reviews written testimony on SB 323 (EXHIBIT K) . Provides background on the independent contractor issue and earlier legislation. Summarizes findings in the Task Force Report (EXHIBIT J) and discusses the work of the Task Force. Notes the need for a standard definition and industry-specific guidelines. States that an agreement could not be reached on workers compensation. Suggests strategies for passing SB 323.
384	Elizabeth Harchenko	Director, Department of Revenue. Submits and reviews a written analysis in support of SB 323 (EXHIBIT L) .

TAPE 137, B

002	Harchenko	Continues testimony. Lists the criteria used to determine an independent contractor.
055	Kris DeSylvia	Oregon Chapter, American Society of Travel Agents. Submits and reviews legal findings in opposition to SB 323 (EXHIBIT M) . Discusses unique complications for the travel industry and necessary relationships that appear to be employer/employee, but are not. Provides an example. Relates their industry is struggling and requests an amendment based on the Airline Reporting Corporation (ARC).
153	Paula Habble	Oregon Chapter, American Society of Travel Agents. Speaks in opposition to SB 323. Reports the industry is filled with women working from their homes. Notes if agencies are unable to secure specialty contractors in Oregon, they will find what they need outside the state. Requests an amendment be considered.
180	Chair Brown	Inquires if their organization was able to participate in the Task Force meetings.
185	DeSylvia	Reports they were unaware of the issue until recently.
211	Jeff Chicoine	Task Force member, labor and employment lawyer. Speaks in support of SB 323.

221	Nancy Kaib	Pharmacist. Relates she owns and operates a brokerage for independent pharmacists. Submits and reviews written testimony in support of SB 323 (EXHIBIT N). Requests the committee put legislative intent on the record with respect to certain language in the bill.
282	Chair Brown	Closes the public hearing on SB 323. Adjourns the meeting at 12:00 p.m.

EXHIBIT SUMMARY

- A. SB 618, written testimony, James Lace, 2 pp
- B. SB 618, written testimony, Rep. Diane Rosenbaum, 1 p
- C. SB 618, written testimony/report, Cynthia Good Mojab, 11 pp
- D. SB 618, written testimony/report, Martha Johnson, 4 pp
- E. SB 618, written testimony, Susan Woodbury, 3 pp
- F. SB 618, written testimony, Diane Garrett, 2 pp
- G. SB 618, written testimony, Julie Brandis, 5 pp
- H. SB 323, -5 amendments, staff, 1 p
 - I. SB 323, -6 amendments, staff, 1 p
- J. SB 323, Final Report of the Independent Contractors Task Force, staff, 87 pp
- K. SB 323, written testimony, Lisa Trussell, 2 pp
- L. SB 323, written bill analysis, Elizabeth Harchenko, 2 pp
- M. SB 323, legal findings, Kris DeSylvia, 2 pp
- N. SB 323, written testimony, Nancy Kaib, 1 p
- O. SB 618, written testimony, Sen. Ginny Burdick, 1 p