

HOUSE JUDICIARY SUBCOMMITTEE
ON CRIMINAL LAW

February 22, 2005 Hearing Room 357

8:30 A.M. Tapes 18 - 19

MEMBERS PRESENT: **Rep. Jeff Barker, Chair**

Rep. Greg Macpherson

Rep. Andy Olson

Rep. Kim Thatcher

GUEST MEMBER: **Rep. Wayne Krieger**

STAFF PRESENT: **Heidi Moawad, Counsel**

Elizabeth Howe, Committee Assistant

MEASURES HEARD: **HB 2317 – Public Hearing**

HB 2360 – Public Hearing

HB 2361 – Public Hearing

HB 2015 – 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
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TAPE 18, A

003 Chair Barker Calls the meeting to order at 8:43 a.m. Opens a public hearing on HB 2317, which defines “conviction” for certain purposes.

HB 2317 – PUBLIC HEARING

006 Heidi Moawad Counsel. Introduces HB 2317.

018 Gina Skinner Oregon District Attorneys Association. Testifies in support of HB 2317. Explains the background of the bill.

052 Rep. Macpherson Asks if there is currently consistent sentencing for jurisdictional convictions.

055 Skinner Explains that interpretation is currently inconsistent.

066 Rep. Macpherson Questions whether penalties are often elevated due to out-of-state convictions.

085 Skinner Offers from her experience that an argument must be made as to why an out-of-state conviction should apply, but it is not consistent.

108 Chair Barker Opens a work session on HB 2317.

110 Rep. Macpherson Expresses why he is uncomfortable moving forward without a fiscal impact statement.

118 Chair Barker Closes work session on HB 2317.

119 Moawad Suggests that the fiscal impact will likely be indeterminate, but expects the statement later this week.

130 Chair Barker Opens a public hearing on HB 2360.

HB 2360 – PUBLIC HEARING

140 Heidi Moawad Counsel. Announces prepared materials submitted without public testimony by Gretchen McKenzie, from the Governor’s Advisory

Committee on DUII (**EXHIBIT A**). Introduces HB 2360, which imposes fine and mandatory imprisonment for person convicted of driving while under influence of intoxicants if person had 0.20 percent or more by weight of alcohol in blood of person at time of offense.

170	Bruce Pratt	Lane County. Testifies in support of HB 2360.
234	B. Pratt	Discusses the dangers of drivers under the influence of intoxicants.
246	Anne Pratt	Linn County. Testifies in support of HB 2360.
266	A. Pratt	Describes five cases when repeat DUII offenders killed other drivers.
301	Gina Skinner	Oregon District Attorneys Association. Testifies in support of HB 2360.
346	Skinner	Discusses the point at which the blood alcohol content (BAC) is measured. Suggests specific language addressing the time of testing.
364	Chair Barker	Asks whether District Attorneys may bargain for sentencing.
369	Skinner	States that District Attorneys cannot plea bargain on DUII convictions.

TAPE 19, A

003	Chair Barker	Explains an old set of statutes that made it possible to plea bargain.
005	Skinner	Replies that this is a single statute that would not allow for plea bargaining.
014	Rep. Macpherson	Asks for clarification about sentencing.
020	Skinner	States that the sentence would be mandatory under HB 2360.
031	Rep. Macpherson	Questions how this statute would work with insufficient prison space.
042	Skinner	

Explains that the sentence is not required to be served consecutively. Stresses that HB 2360 requires the judge to impose the sentence, and the jail is responsible for the way it is carried out.

075	Jeff Rost	Forensic Supervisor, Oregon State Police. Submits neutral written testimony (EXHIBIT B) and explains the fiscal impact to forensics.
114	Paul Snyder	Association of Oregon Counties. Testifies neutrally, and explains the fiscal impact to county jails due to insufficient jail space in prisons.
172	Rep. Macpherson	Asks how the decision is made as to which prisoners should be released when mandatory minimum sentences must be served.
187	Snyder	Discusses a triage process.
209	Kelly Skye	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2360. Explains why OCDLA opposes mandatory minimum sentences.
268	Skye	Illustrates why some offenders might not need to serve a full sentence.
306	Chair Barker	States that an offender with 0.20 realizes that they are impaired.
312	Skye	Describes that 0.20 drinkers are beyond knowing they are impaired.
332	Moawad	Asks if client refused diversion.
336	Skye	Believes client was not eligible for diversion due to another charge.
343	Chair Barker	Mentions need to get a fiscal statement and address the time of the breathalyzer test. Closes public hearing on HB 2360. Opens public hearing on HB 2361.

HB 2361 – PUBLIC HEARING

359	Heidi Moawad	Counsel. Introduces HB 2361, which requires revocation of driving privileges of persons convicted of misdemeanor driving under the influence of intoxicants for third or subsequent time.
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387	Rep. Krieger	Comments about not giving the courts discretion.
394	Bruce Pratt	Lane County. Testifies in support of HB 2361.
411	Gina Skinner	Oregon District Attorneys Association. Testifies in support of HB 2361. Discusses out-of-state convictions, and unclear language in the bill from last session.

TAPE 18, B

009	Skinner	Discusses allowance for offenders to apply to reinstate their license.
041	Paul Romain	Oregon Beer and Wine Distributors Association. Testifies in support of HB 2361. Suggests revising the measure summary to state that this bill is an amendment to the bill passed last session.
062	Kelly Skye	Oregon District Attorneys Association. Testifies in opposition to HB 2361. Points out that HB 2361 will punish offenders on probation more than offenders who were sent to prison.
096	Chair Barker	Asks for her suggestions for remedies.
098	Skye	Suggests omitting the section from the bill.
110	Chair Barker	Asks counsel to look at measure summary. Closes public hearing on HB 2361. Calls a recess at 9:50 a.m.
120	Chair Barker	Reconvenes at 9:56 a.m. Opens a work session on HB 2015, which extends the statute of limitations for certain felonies.

HB 2015 – WORK SESSION

122	Rep. Macpherson	Discusses statutes of limitations in other states compared to Oregon.
139	Rep. Macpherson	States his intention to vote against HB 2015 today and explains why.
153	Rep. Macpherson	MOTION: Moves HB 2015 to the full committee with a DO PASS recommendation.

VOTE: 3-1-0

AYE: 3 - Olson, Thatcher, Barker

NAY: 1 - Macpherson

160 Chair Barker The motion CARRIES.

REP. OLSON will lead discussion in the full committee.

161 Chair Barker Closes work session on HB 2015. Adjourns the meeting at 10:00 a.m.

EXHIBIT SUMMARY

- A. HB 2360, written testimony, Gretchen McKenzie, 2 pp**
- B. HB 2360, written testimony, Jeff Rost, 2 pp**