

## SENATE COMMITTEE ON JUDICIARY

March 14, 2005  
1:00 P.M.

Hearing Room 343  
Tapes 64 - 65

Corrected 10/26/05

**MEMBERS PRESENT:**     **Sen. Ginny Burdick, Chair**  
                                  **Sen. Charles Starr, Vice-Chair**  
                                  **Sen. Roger Beyer**  
                                  **Sen. Floyd Prozanski**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Vicki Walker**  
                                  **Sen. Doug Whitsett**

**STAFF PRESENT:**       **Joe O'Leary, Counsel**  
                                  **William E. Taylor, Counsel**  
                                  **Dale Penn, Committee Assistant**

**MEASURES/ISSUES HEARD:**  
                                  **SB 493 – Public Hearing**  
                                  **SB 229 – Work Session**  
                                  **SB 234 – Work Session**  
                                  **HB 2261 – Public Hearing and Work Session**  
                                  **SB 492 – Public Hearing**  
                                  **SB 591 – Public Hearing**  
                                  **SB 938 – Public Hearing**  
                                  **SB 230 – Work Session**  
                                  **SB 921 – Work Session**  
                                  **SB 238 – Work Session**  
                                  **SB 239 – Work Session**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 64, A</b>		
003	Chair Burdick	Calls the meeting to order at 1:15 p.m. and opens a public hearing on SB 493.
<b><u>SB 493 – PUBLIC HEARING</u></b>		
010	Joe O'Leary	Counsel. Describes SB 493 relating to lawfully using a bicycle lane to proceed through a red light at the top of a T intersection after stopping at a light. Introduces the -1 amendment <b>(EXHIBIT H)</b> .
046	Daniel J. Heffernan	Citizen. Submits a PowerPoint presentation and testimony and testifies in support of SB 493 <b>(EXHIBITS A &amp; B)</b> .
090	Heffernan	Emphasizes the ridiculous nature of forcing a cyclist to stop at such an intersection.
127	Chair Burdick	Inquires about mopeds and motorized wheelchairs under this law.
134	Heffernan	States that wheelchairs are allowed, but mopeds are not.

144	Heffernan	Goes over the PowerPoint presentation ( <b>Exhibit A</b> ).
169	Sen. Beyer	Asks about the yield for a cyclist in a certain scenario.
173	Heffernan	Responds with information on who has the right of way.
195	Scott Bricker	Policy Director, Bicycle Transportation Alliance. Submits testimony and testifies in a neutral stance on SB 493 ( <b>EXHIBIT C</b> ).
235	John Jackley	Executive Officer, Highway Division, Department of Transportation. Submits testimony and testifies in a neutral stance on SB 493 ( <b>EXHIBIT D</b> ).
257	Chair Burdick	Closes the public hearing on SB 493 and opens a work session on SB 229 and SB 234.

**SB 229 & SB 234 – WORK SESSION**

265	Chair Burdick	Moves SB 229 & SB 234 to the agenda for March 15, 2005.
272	Chair Burdick	Calls the senate judiciary committee to recess.
274	Chair Burdick	Calls the meeting to order and opens a public hearing on HB 2261.

**HB 2261 – PUBLIC HEARING**

276	Joe O’Leary	Counsel. Describes HB 2261 relating to nonsubstantive and technical changes in Oregon law.
283	Dave Heynderickx	Acting Legislative Counsel. Testifies on the reasoning behind SB 2261; a housekeeping bill.
330	Heynderickx	Discusses the comments on each change in the bill, and talks about the -1 amendment ( <b>EXHIBIT E</b> ).
391	Chair Burdick	Closes the public hearing on HB 2261 and opens a work session on HB 2261.

**HB 2261 – WORK SESSION**

<b>402</b>	<b>Sen. Starr</b>	<b>MOTION: Moves to ADOPT HB 2261-1 amendments dated 2/28/05.</b>
407	Sen. Beyer	Asks about the new sections in the amendment.
424	Dave Heynderickx	Acting Legislative Counsel. Discusses the changes resulting from the -1 amendment ( <b>Exhibit E</b> ).
452	Sen. Walker	Inquires about page 153 relating to the name change in a council.
499	Heynderickx	Replies with information on the name change.
443	Sen. Walker	Wonders about the use of several terms in the bill relating to bawdy houses and other certain instances.

**TAPE 65, A**

030	Heynderickx	Cites historical information on these types of changes.
054	Chair Burdick	Declares her support of the changes. <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Ringo</b>
<b>065</b>	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>067</b>	<b>Sen. Starr</b>	<b>MOTION: Moves HB 2261A to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Ringo</b>
<b>071</b>	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.</b>
075	Chair Burdick	Closes the work session on HB 2261 and opens a public hearing on SB 492.

**SB 492 – PUBLIC HEARING**

085	Joe O’Leary	Counsel. Describes SB 492 relating to the laws regarding driver duties to certain pedestrians.
094	Troy E. Costales	Manager, Transportation Safety Division, Oregon Department of Transportation. Submits testimony and testifies in support of SB

		492 ( <b>EXHIBIT F</b> ).
118	Chair Burdick	Asks if the two provisions of the vehicle code (dealing with signalized and un-signalized intersections) are combined into one provision by passing SB 492.
120	Costales	Agrees, and explains the new situation.
123	Chair Burdick	Inquires about the different bills relating to this issue facing the legislature.
127	Costales	Gives information on the other bills (i.e., HB 2109 in House Transportation) in the session.
133	Sen. Starr	Asks if SB 492 repeals a section of another bill passed last session.
137	Costales	States that it alters a portion of the bill and explains what it changes.
150	Chair Burdick	Opens a combined public hearing on SB 492 & SB 591.

**SB 492 & SB 591 – PUBLIC HEARING**

162	Mark Landauer	Office of Government Relations, Portland. Testifies in support of SB 492.
167	Mark Lear	Manager, Traffic Investigation Group, Portland. Submits testimony and testifies in support of SB 492 & SB 591 ( <b>EXHIBIT G</b> ).
219	Mark Lear	Points to a graphic that demonstrates the traffic accidents that occurred due to drivers striking a pedestrian in the right of way.
233	Chair Burdick	Wonders about the value of having signalized and non-signalized statutes in one section in a bill.
239	Lear	Stresses that the bill will help law enforcement. Mentions information on possible accident prevention methods.
252	Chair Burdick	Emphasizes that clear painted crosswalks are helpful to drivers to prevent accidents.
264	Scott Bricker	Policy Director, Willamette Pedestrian Coalition. Submits the written testimony of April Bertelsen, President of Willamette Pedestrian Coalition, and testifies in support of SB 492 ( <b>EXHIBIT I</b> ).
313	Chair Burdick	Closes the public hearing on SB 492.
297	Joe O’Leary	Counsel. Describes SB 591 relating to parts of a roadway that are considered adjacent to the lane in which a driver’s vehicle is traveling.
325	Sen. Prozanski	Declares his support for SB 591 and details the problems this bill will fix.
352	Chair Burdick	Inquires about bicycle lane requirements.
358	Sen. Prozanski	Clarifies the effects of SB 591.
386	Mark Lear	Manager, Traffic Investigation Group, Portland. Offers clarification on the effects of SB 591.
402	Chair Burdick	Asks about the lane changes in the bill.
404	Lear	Offers information on the lane changes involved with the bill.
428	Chair Burdick	Closes the public hearing on SB 591 and opens a public hearing on SB 938.

**SB 938 – PUBLIC HEARING**

438	Joe O’Leary	Counsel. Describes SB 938 relating to providing exceptions for bicycles for the offense of unsafe passing on the right.
456	Scott Bricker	Policy Director, Bicycle Transportation Alliance. Submits testimony and testifies in support of SB 938 ( <b>EXHIBIT J</b> )
476	Doug Parrow	Board of Directors, Bicycle Transportation Alliance. Testifies in support of SB 938. Details the possible amendments they would suggest.

**TAPE 64, B**

038 Ray Thomas Portland bicycle lawyer. Submits testimony and testifies in support of SB 938 (**EXHIBIT K**).

081 Thomas Talks about the federal Universal Vehicle Code (UVC) dealing with passing on the right. Discusses paragraph 2 of SB 938.

110 Thomas Addresses the issue of motorcycles passing a car in the same lane.

150 Thomas Brings up the problems in current bicycle laws.

178 Parrow Introduces a possible amendment for SB 938 (**EXHIBIT L**).

201 Chair Burdick Expresses her confusion on the idea of a bike lane being on the right of a right turn lane.

205 Parrow Cites examples of right turn lanes where the bike lane is on the right.

221 Rep. Jackie Dingfelder House District 45. Testifies in support of SB 938. Declares that the bill will clarify different problems facing cyclists.

274 Kat Iverson Washington County. Submits testimony and testifies in opposition to SB 938 (**EXHIBIT M**).

310 Sen. Prozanski Asks about the 100 feet turn signal law.

314 Iverson Agrees that motorists are legally required to use their turn signals, but cites examples of how this could still cause danger. Continues testimony in opposition to SB 938, discussing examples of how the bill will be dangerous to both drivers and cyclists.

364 Iverson Cites examples of how SB 938 creates dangers for both cyclists and drivers.

415 Iverson Discusses SB 938 conflicting with other laws. Talks about possible conceptual amendments.

478 Chair Burdick Closes the public hearing on SB 938 and opens a work session on SB 230.

**SB 230 – WORK SESSION**

482 Joe O’Leary Counsel. Describes SB 230 relating to establishing a procedure for appointing a guardian ad litem. Discusses the -1 amendment (**EXHIBIT N**).

**TAPE 65, B**

034 Wendy Johnson Deputy Director, Oregon Law Commission. Discusses the reasoning behind the bill.

050 Chair Burdick Asks if the purpose of the guardian ad litem is meant to preserve the rights of the parents.

053 Johnson Replies yes, and offers information.

**062 Sen. Prozanski MOTION: Moves to ADOPT SB 230-1 amendments dated 1/28/05.**

**VOTE: 6-0-1**

**EXCUSED: 1 - Whitsett**

**065 Chair Burdick Hearing no objection, declares the motion CARRIED.**

**066 Sen. Prozanski MOTION: Moves SB 230A to the floor with a DO PASS AS AMENDED recommendation.**

069 Sen. Beyer Opposes the motion to move SB 320A to the floor. Offers information as to his opposition to the bill.

**091 VOTE: 4-3-0**

**AYE: 4 - Prozanski, Ringo, Walker, Burdick**

**NAY: 3 - Beyer, Starr C., Whitsett**

**094 Chair Burdick The motion CARRIES.**

**SEN. PROZANSKI will lead discussion on the floor.**

102 Chair Burdick Closes the work session on SB 230 and opens a work session on

SB 921.

**SB 921 – WORK SESSION**

106	Joe O’Leary	Counsel. Describes SB 921 relating to requiring the petitioner for adoption to serve summons and motion and order to show cause on certain parents who do not consent to adoption.
121	Wendy Johnson	Introduces and discusses the -1 amendment ( <b>EXHIBIT O</b> ). Deputy Director, Oregon Law Commission. Details the history of the bill and the status of the amendments.
135	<b>Sen. Prozanski</b>	<b>MOTION: Moves to ADOPT SB 921-1 amendments dated 3/9/05.</b>
138	Sen. Beyer	Asks about a possible fiscal impact.
142	O’Leary	States there is a negative fiscal impact statement. <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Starr</b>
094	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
148	<b>Sen. Prozanski</b>	<b>MOTION: Moves SB 921 to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Starr</b>
152	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. WALKER will lead discussion on the floor.</b>
155	Chair Burdick	Closes the work session on SB 921 and opens a work session on SB 238.

**SB 238 – WORK SESSION**

157	William E. Taylor	Counsel. Describes SB 238 relating to the rights of firefighters, tobacco users and members of the Legislative Assembly.
172	Wendy Johnson	Discusses the -1 amendment ( <b>EXHIBIT P</b> ). Deputy Director, Oregon Law Commission (OLC). Details her support for SB 238.
192	Sen. Ringo	Asks about the policy reasoning behind the bill.
193	Johnson	Responds why the OLC took on the drafting of this bill.
232	<b>Sen. Prozanski</b>	<b>MOTION: Moves to ADOPT SB 238-1 amendments dated 2/21/05.</b>
237	Sen. Beyer	Expresses his belief that tobacco users should have the same rights as others.
251	<b>Chair Burdick</b>	<b>VOTE: 4-2-1</b> <b>AYE: 4 - Prozanski, Ringo, Walker, Burdick</b> <b>NAY: 2 - Beyer, Whitsett</b> <b>EXCUSED: 1 - Starr C.</b>
251	<b>Chair Burdick</b>	<b>The motion CARRIES.</b>
254	<b>Sen. Prozanski</b>	<b>MOTION: Moves SB 238A to the floor with a DO PASS AS AMENDED recommendation.</b>
260	Johnson	Discusses the employment discrimination against tobacco users. <b>VOTE: 7-0-0</b> <b>AYE: 7 - Beyer, Prozanski, Ringo, Starr C., Walker, Whitsett, Burdick</b>
284	<b>Chair Burdick</b>	<b>The motion CARRIES.</b> <b>SEN. BURDICK will lead discussion on the floor.</b>
291	Chair Burdick	Closes the work session on SB 238 and opens a work session on SB 239.

**SB 239 – WORK SESSION**

299	William E. Taylor	Counsel. Describes SB 239 relating to modifying the list of protected classes in civil rights law.
306	<b>Sen. Prozanski</b>	<b>MOTION: Moves SB 239 to the floor with a DO PASS</b>

311	Sen. Beyer	<p><b>recommendation.</b></p> <p>Explains his hesitance to support a bill that might change legislative intent.</p> <p><b>VOTE: 6-0-1</b></p> <p><b>EXCUSED: 1 - Ringo</b></p>
325	Chair Burdick	<p><b>Hearing no objection, declares the motion CARRIED.</b></p> <p><b>SEN. WALKER will lead discussion on the floor.</b></p>
329	Chair Burdick	<p>Closes the work session on SB 239 and adjourns the meeting at 2:58 p.m.</p>

## **EXHIBIT SUMMARY**

- A. **SB 493, PowerPoint presentation, Daniel Heffernan, 14 pp**
- B. **SB 493, written testimony, Daniel Heffernan, 2 pp**
- C. **SB 493, written testimony, Scott Bricker, 1 p**
- D. **SB 493, written testimony, John Jackley, 2 pp**
- E. **HB 2261, -1 amendment, staff, 4 pp**
- F. **SB 492, written testimony, Troy Costales, 1 p**
- G. **SB 492, written testimony, Mark Lear, 2 pp**
- H. **SB 492, -1 amendment, staff, 1 p**
- I. **SB 492, written testimony, Scott Bricker, 2 pp**
- J. **SB 938, written testimony, Scott Bricker, 3 pp**
- K. **SB 938, written testimony, Ray Thomas, 5 pp**
- L. **SB 938, proposed amendments, Doug Parrow, 1 p**
- M. **SB 938, written testimony, Kat Iverson, 3 pp**
- N. **SB 230, -1 amendment, staff, 1 p**
- O. **SB 921, -1 amendment, staff, 7 pp**
- P. **SB 238, -1 amendment, staff, 1 p**