

SENATE COMMITTEE ON JUDICIARY

April 19, 2005
1:00 P.M.

Hearing Room 343
Tapes 112 - 113

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

MEMBER EXCUSED: **Sen. Charlie Ringo**

STAFF PRESENT: **William E. Taylor, Counsel**
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:

SB 208 – Work Session
SB 548 – Work Session
SB 844 – Work Session
SB 234 – Work Session
SB 229 – Work Session
SB 965 – Work Session
SB 304 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 112, A		
003	Chair Burdick	Calls the meeting to order at 1:20 p.m. and opens a work session on SB 208.
<u>SB 208 – WORK SESSION</u>		
006	William E. Taylor	Counsel. Describes SB 208 relating to expanding the state no call program and the regulation of unlawful telephone solicitations to include all telephone customers of telecommunications companies. Introduces the -2 and the -7 amendments (EXHIBITS A & B).
022	Kevin Neely	Executive Assistant, Attorney General Hardy Myers, Department of Justice. Discusses the -7 amendments in relation to the -2 amendment.
036	Chair Burdick	Inquires if this provides the Attorney General with the ability to enforce this law as opposed to the federal government.
041	Neely	Replies yes, and offers information on the exemption to the jurisdiction of the Attorney General after this bill.
044	Sen. Walker	Asks about a private right of action being still available.
047	Neely	Responds that he isn't sure.
052	Sen. Walker	Expresses her belief that consumers are hurt by the federal law, and hesitates to support any state bill that might injure them

further.

056 Chair Burdick Wonders about private rights of action pursued under Oregon law.

059 Neely Answers that he is not sure about that issue and clarifies the jurisdiction of the bill.

071 Sen. Whitsett Asks if any portions of the fines resulting from these litigations are retained by the Attorney General.

075 Neely Explains the jurisdiction of the federal and state government in relation to fines.

093 Sen. Whitsett Inquires about the current opinions of the individuals who were against the bill before the amendments.

096 Neely States that he hasn't approached the opposition to this bill and talks about the proponents of the bill.

101 Chair Burdick Expresses that nobody has come to her with opposition.

108 Sen. Starr **MOTION: Moves to ADOPT SB 208-7 amendments dated 4/11/05.**
VOTE: 6-0-1
EXCUSED: 1 - Ringo

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

114 Sen. Starr **MOTION: Moves SB 208 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 4-2-1
AYE: 4 - Prozanski, Starr C., Walker, Burdick
NAY: 2 - Beyer, Whitsett
EXCUSED: 1 - Ringo

126 Chair Burdick **The motion CARRIES.**
SEN. BURDICK will lead discussion on the floor.

136 Chair Burdick Closes the work session on SB 208 and opens a work session on SB 548.

SB 548 – WORK SESSION

125 William E. Taylor Counsel. Describes SB 548 relating to modifying the crime of interfering with a peace officer. Introduces the -1 and -2 amendments (**EXHIBITS C & D**).

151 Sen. Prozanski Describes the -1 and -2 amendments.

178 Sen. Starr **MOTION: Moves to ADOPT SB 548-1 amendments dated 3/9/05.**
VOTE: 6-0-1
EXCUSED: 1 - Ringo

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

181 Sen. Starr **MOTION: Moves to ADOPT SB 548-2 amendments dated 3/10/05.**
VOTE: 6-0-1
EXCUSED: 1 - Ringo

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

186 Sen. Starr **MOTION: Moves SB 548 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 6-0-1
EXCUSED: 1 - Ringo

188 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
SEN. PROZANSKI will lead discussion on the floor.

194 Chair Burdick Closes the work session on SB 548 and opens a work session on SB 844.

SB 844 – WORK SESSION

198 William E. Taylor Counsel. Describes SB 844 relating to increasing the penalty for

219	Suzanne Funkhouser	a dog keeper who maintains a public nuisance by keeping a dog that bites a person. Discusses the -2 amendment (EXHIBIT E).
229	Sen. Ryan Deckert	Legislative Aide, Sen. Deckert. Talks about the -2 amendment.
241	Chuck Taylor	Senate District 14. Talks about the -2 amendment.
300	Sen. Starr	Deputy Legislative Counsel. Discusses section 1 of the -2 amendment relating to civil liability. MOTION: Moves to ADOPT SB 844-2 amendments dated 4/7/05.
305	Sen. Beyer	Asks about current law relating to the authority of the state to take action against a potentially dangerous dog.
312	C. Taylor	Replies with information on current Oregon statute.
356	Sen. Prozanski	Clarifies the term “knowingly” versus “criminally negligible” current law on this issue.
365	C. Taylor	Talks about county ordinances dealing with the issue of dog attacks.
373	Sen. Whitsett	Discusses page 2 line 10 relating to the dog attack being on the property of the owner.
396	Funkhouser	Addresses the issue of trespassing in relation to this issue.
410	Sen. Whitsett	Asks why is there an exemption to an owner prohibiting individuals from coming onto his property.
423	C. Taylor	Comments on section 7 of the amendment dealing with injuries relating to dog attacks while on the owner’s property.
447	Sen. Deckert	Talks about the work group that came up with this amendment.
TAPE 113, A		
021	Sen. Starr	VOTE: 4-2-1 AYE: 4 - Prozanski, Starr C., Walker, Burdick NAY: 2 - Beyer, Whitsett EXCUSED: 1 - Ringo The motion CARRIES.
030	Chair Burdick	
033	Sen. Starr	MOTION: Moves SB 844 to the floor with a DO PASS AS AMENDED recommendation.
037	Chair Burdick	VOTE: 4-2-1 AYE: 4 - Prozanski, Starr C., Walker, Burdick NAY: 2 - Beyer, Whitsett EXCUSED: 1 - Ringo The motion CARRIES.
038	Chair Burdick	SEN. DECKERT will lead discussion on the floor.
045	Chair Burdick	Closes the work session on SB 844 and opens a work session on SB 234.
<u>SB 234 – WORK SESSION</u>		
059	William E. Taylor	Counsel. Introduces the -2, -3, -4, and -6 amendments (EXHIBITS F – I).
070	Ronelle Shankle	Department of Justice. Discusses the amendments for SB 234.
085	Chair Burdick	Asks whether they need to adopt all of the amendments.
092	Shankle	Explains the different acceptable amendment combinations.
105	Wendy Johnson	Deputy Director, Oregon Law Commission (OLC). Talks about the OLC’s approval of the -2 amendment for the bill, and takes a neutral stance on the -3, -4 and -6 amendment as they have yet to see these newer changes.
117	Chair Burdick	Inquires about a two-year sunset clause on the -6 amendment.
119	Shankle	Replies that there is a sunset clause as a compromise during the workgroup.
124	Chair Burdick	Clarifies the need for the different amendments.
126	Johnson	Explains that the OLC has a comparative bill dealing with this

142	Chair Burdick	issue, and what the commission will do during the 2007 session after the sunset clause has expired on the -6 amendment. Assures the committee that the House Judiciary Committee will support this bill.
157	Shankle	Declares that the -3 and -4 amendments have yet to be discussed among the House Judiciary Committee members.
172	Sen. Prozanski	Desires clarification on the effects of the -3 and -4 amendments.
175	Shani Fuller	Oregon Child Support Program, Department of Justice. Talks about the different effects of the -3 and -4 amendments.
190	Chair Burdick	Inquires about the differences between the -3 and -4 amendments
199	Fuller	Responds with information on paternity establishment services through the Oregon Child Support Programs and how the -4 amendment addresses this issue.
209	Johnson	States that the courts support the amendments.
261	Starr	Inquires if the -3 and -4 are repetitive in several sections.
268	Johnson	Replies that they are, but different in certain areas, and explains where.
289	Taylor	Describes the process resulting from passing the amendments.
300	Sen. Beyer	Brings up the issue that a -7 is needed to reconcile the 3 amendments together.
322	Taylor	Explains the situation with the different amendments, and how Legislative Counsel would draft a new amendment in order to reconcile all the similar areas in each draft.
351	Sen. Starr	MOTION: Moves to ADOPT SB 234-3 amendments dated 4/14/05. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker Hearing no objection, declares the motion CARRIED.
354	Chair Burdick	MOTION: Moves to ADOPT SB 234-4 amendments dated 4/14/05.
357	Sen. Starr	VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker Hearing no objection, declares the motion CARRIED.
359	Chair Burdick	MOTION: Moves to ADOPT SB 234-6 amendments dated 4/19/05.
362	Sen. Starr	VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker Hearing no objection, declares the motion CARRIED.
363	Chair Burdick	MOTION: Moves SB 234 to the floor with a DO PASS AS AMENDED recommendation.
366	Sen. Starr	
370	Sen. Whitsett	States that he will support the bill but may change his mind on the Senate floor. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker
379	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.
395	Chair Burdick	Closes the work session on SB 234 and opens a work session on SB 229.

SB 229 – WORK SESSION

396	William E. Taylor	Counsel. Describes SB 229 relating to requiring that in a dependency proceeding in juvenile court, the court gives preference in placement of the child or ward to a person with caregiver relationship with the child or ward. Introduces the -4 amendment (EXHIBITJ).
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427	Wendy Johnson	Deputy Director, Oregon Law Commission (OLC). Testifies on the -4 amendment.
443	Ingrid Swenson	Office of Public Defense Services. Submits testimony and testifies in support of SB 229 (EXHIBIT K).
476	Chair Burdick	Asks if the OLC is neutral on this issue.
478	Swenson	Replies yes.
489	Sen. Starr	MOTION: Moves to ADOPT SB 229-4 amendments dated 3/28/05.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Walker
491	Chair Burdick	Hearing no objection, declares the motion CARRIED.
494	Sen. Starr	MOTION: Moves SB 229 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Walker
497	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. WALKER will lead discussion on the floor.
509	Chair Burdick	Closes the work session on SB 229 and opens a work session on SB 965.

SB 965 – WORK SESSION

TAPE 112, B

031	William E. Taylor	Counsel. Describes SB 965 relating to creating a cause of action for personal privacy. Discusses a possible -4 amendment.
043	Sen. Prozanski	Brings up an issue with the retroactivity of the bill compromising expo facto laws.
046	Taylor	Acknowledges that there might be issues with the bill and advises moving the bill over to another date until Legislative Counsel can address the issues.
078	Chair Burdick	Closes the work session on SB 965 and puts SB 216, SB 333, SB 913, and SB 965 to Wednesday, April 20, 2005. Opens a work session on SB 304.

SB 304 – WORK SESSION

092	William E. Taylor	Counsel. Describes SB 304 relating to reviving certain product liability civil actions for damages resulting from asbestos-related disease claims that are barred solely because the statute of limitations for these claims has expired. Introduces the -1 and -2 amendments (EXHIBITS L & M).
116	Ann Samuelson	Plumbing contractor, author of the bill. Testifies in support of the bill and the revisions in the amendments.
137	Sen. Starr	Asks about the different amendments.
144	Taylor	Talks about the language in the -1 and -2 amendments.
154	Sen. Prozanski	Discusses the amendments and a possible drafting conflict during their creation.
187	Sen. Starr	MOTION: Moves to ADOPT SB 304-2 amendments dated 4/18/05.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
189	Chair Burdick	Hearing no objection, declares the motion CARRIED.
195	Sen. Starr	MOTION: Moves SB 304 to the floor with a DO PASS AS AMENDED recommendation.
182	Sen. Beyer	VOTE: 4-2-1
		AYE: 4 - Prozanski, Starr C., Walker, Burdick
		NAY: 2 - Beyer, Whitsett
		EXCUSED: 1 - Ringo

210	Chair Burdick	The motion CARRIES. SEN. RINGO will lead discussion on the floor.
208	Chair Burdick	Closes the work session on SB 304 and adjourns the meeting at 2:30.

EXHIBIT SUMMARY

- A. SB 208, -2 amendment, staff, 2 pp
- B. SB 208, -7 amendment, staff, 10 pp
- C. SB 548, -1 amendment, staff, 1 p
- D. SB 548, -2 amendment, staff, 1 p
- E. SB 844, -2 amendment, staff, 16 pp
- F. SB 234, -2 amendment, staff, 5 pp
- G. SB 234, -3 amendment, staff, 14 pp
- H. SB 234, -4 amendment, staff, 14 pp
- I. SB 234, -6 amendment, staff, 16 pp
- J. SB 229, -4 amendment, staff, 1 p
- K. SB 229, written testimony, Ingrid Swenson, 3 pp
- L. SB 304, -1 amendment, staff, 1 p
- M. SB 304, -2 amendment, staff, 1 p