

# SENATE COMMITTEE ON JUDICIARY

April 05, 2005  
1:00 P.M.

Hearing Room 343  
Tapes 94 - 95

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

**MEASURES/ISSUES HEARD:**  
SB 948 – Public Hearing  
SB 953 – Public Hearing and Work Session  
SB 113 – Work Session  
SB 114 – Public Hearing and Work Session  
SB 368 – Public Hearing  
SB 940 – Public Hearing

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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 94, A</b>		
003	Chair Burdick	Calls the meeting to order at 1:17 p.m. and opens a public hearing on SB 948.
<b>SB 948 – PUBLIC HEARING</b>		
005	William E. Taylor	Counsel. Describes SB 948 relating to directing the courts to suspend driving privileges and the right to apply for driving privileges for a period not to exceed one year if the person provides alcoholic liquor to persons under the age of 21 years in violation of the law.
015	Rob Douglas	DIAGEO. Testifies in support of SB 948. Discusses the statistics on Oregon's under age alcohol consumption.
043	Chair Burdick	Inquires about an amendment that would allow consumption of alcohol for religious purposes.
049	Douglas	Replies that they would support such an amendment.
052	Sen. Ringo	Asks why there is not a more lenient bill, especially for first time offenders.
060	Douglas	Responds that this bill will have a positive effect on reducing underage alcohol consumption.
070	Sen. Beyer	Wonders about a scenario involving a homeowner who does not actively engage or witness the illegal consumption of alcohol and who does nothing to actively stop the drinking of alcohol: Will

		they be held liable.
081	Douglas	Replies that they would most likely have to be physically present in order to be held liable.
093	Sen. Ringo	Asks about a person who purchases alcohol but does not remain to be present at the underage consumption of alcohol.
105	Douglas	States that they would be liable if other children besides their own were involved.
110	Chair Burdick	Attempts to clarify the issue.
120	Bernie Giusto	Multnomah County Sheriff. Testifies on the issue of underage consumption of alcohol. Recounts his own history with underage drinking in college.
161	Giusto	Stresses that the jail is full of people that will recount that their history of drug addiction began with underage alcohol consumption. Testifies in support of SB 948.
187	Sen. Ringo	Inquires about provisional licenses being allowed to offenders.
190	Giusto	States that he believes they would be allowed.
193	Chris Gibson	Deputy Chief of Police, Beaverton Police Department. Testifies in support of SB 948. Discusses current law that faces individuals who decide to provide alcohol to minors.
247	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 948. States their hesitance to support a bill that would punish an individual with something that has nothing to do with the crime (driving license and alcohol consumption have little in common in this regard).
282	Steve Lanning	Oregon American Federation of Labor - Congress of Industrial Organizations. Testifies in opposition to SB 948. Discusses the proposed amendments.
302	Sen. Beyer	Brings up the issue of “knowingly” making a sell to minors.
307	Chair Burdick	Clarifies the issue, and discusses the “knowingly” clause within the bill.
326	Sen. Beyer	Inquires about the clause.
327	Chair Burdick	Offers clarification on the drafting of the bill.
343	Andi Jordan	Oregon Parent Teacher Association. Testifies in support of SB 948.
357	Otto Schell	Oregon Parent Teacher Association. Testifies in support of SB 948. Talks about the repercussions of underage drinking.
403	Sen. Ringo	Stresses his worries about people driving without their license, and how this could turn into a spiral of crime.
423	Schell	Addresses the concerns from Sen. Ringo. Talks about driving as social mobility and more than just transportation for those who the bill would affect.
454	Paul Cosgrove	Distilled Spirits Council of the United States. Testifies in support of SB 948 and the possible amendments. Discusses the fear of losing your driving privileges as a good deterrent in committing an illegal action.

**TAPE 95, A**

022	Chair Burdick	Closes the public hearing on SB 948 and opens a public hearing on SB 953.
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**SB 953 – PUBLIC HEARING**

024	William E. Taylor	Counsel. Describes SB 953 relating to modifying the exemption from public records disclosure of information about persons who donate money or property to Oregon Health and Science University so that the exemption is the same as the exemption for persons who donate money or property to the Oregon University
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		System.
031	Bryan Boehringer	Oregon Health and Science University. Submits testimony and testifies in support of SB 953 ( <b>EXHIBIT A</b> ).
058	Sen. Walker	Stresses that she does not like exemptions to the public records law. Asks about the public records law in relation to the university system.
067	Boehringer	Replies with information on the university system's relationship with the public record law. Talks about the budget problems facing the university system, and how this removes a barrier from private donations.
083	Sen. Walker	Agrees with the earlier statement of the bill removing a possible barrier from private donations.
090	Taylor	Clarifies the drafting choices of the bill.
102	Sen. Beyer	Asks about a sunset clause.
105	Boehringer	Discusses the different sections and addresses the sunset clause.
115	Sen. Beyer	Reiterates that he does not see a date when the sunset clause would go into effect.
119	Boehringer	Replies that there is no current sunset clause, and describes the reasoning.
122	Taylor	Offers clarification on the sunset clause in SB 953.
136	Sen. Beyer	Discusses subsection 26 in the bill relating to the sunset clause.
142	Chair Burdick	Closes the public hearing and opens a work session on SB 953.

**SB 953 – WORK SESSION**

145	Sen. Starr	<b>MOTION: Moves SB 953 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0-0</b>
147	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.</b>
153	Chair Burdick	Closes the work session on SB 953 and opens a work session on SB 113.

**SB 113 – WORK SESSION**

156	William E. Taylor	Counsel. Describes SB 113 relating to increasing the number of years between certain convictions before a person can qualify for driving while under the influence of intoxicants diversion program.
167	Chair Burdick	Discusses the proposed amendments.
184	Sen. Starr	<b>MOTION: Moves SB 113 to the floor with a DO PASS recommendation.</b>
187	Sen. Beyer	Offers his objections to the bill.
192	Sen. Walker	Talks about the possible objections she has with the bill.
205	Sen. Beyer	States that 10 years is a long time, and that there has yet to be a valid argument that proves that increasing the time between penalties is a good idea.
213	Sen. Ringo	Comments on diversion programs, and agrees with Sen. Beyer's concern.
228	Sen. Whitsett	Agrees with Sen. Ringo, and discusses the diversion programs.
234	Sen. Walker	Points out a discrepancy in the files with the data.
240	Sen. Prozanski	States his concern over the 15 years time frame.
257	Starr	Moves to withdraw the motion to send SB 113 to the floor.
265	Sen. Prozanski	Talks about the work the Governor's Task Force has done on this bill.
278	Chair Burdick	Closes the work session on SB 113 and opens a public hearing

on SB 114.

**SB 114 – PUBLIC HEARING**

282	William E. Taylor	Counsel. Describes SB 114 relating to increasing the fees for screening interviews of persons convicted of driving while under the influence of intoxicants and diagnostic assessments of persons entering diversion agreements.
291	Sen. Whitsett	Asks when the original fee was established.
306	Sen. Prozanski	Replies that it was enacted within the last ten years.
316	Teresa Douglas	Governor's Advisory Committee on Driving Under the Influence of Intoxicants (DUII), Alcohol and Drug Evaluation Specialist. Submits testimony and testifies in support of SB 114 ( <b>EXHIBIT B</b> ).
370	Douglas	Discusses the budgetary concerns for the courts, and how the evaluation specialists have been helping alleviate some of their concerns with volunteering time.
407	Chair Burdick	Asks how they handle people who are unable to pay.
410	Douglas	Replies that many evaluators, herself included, allow lower fees for those who are food-stamp eligible.
418	Chair Burdick	Inquires about someone who could not pay for the evaluation.
423	Douglas	Responds that she allows individuals to make payments, but if they refuse to pay then she will have to send them back to the courts.
430	Sally Penna	Alcohol and Drug Evaluation Specialist. Submits testimony and testifies in support of SB 114 ( <b>EXHIBIT C</b> ). Talks about a recent bill facing the legislature and how it was forced down due to a gut and stuff amendment that had nothing to do with the issue.
481	Taylor	Comments on the rights of individuals for diversion programs, and invites Kelly Skye from the Oregon Criminal Defense Lawyers Association to testify.
498	Kelly Skye	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies on the rights for treatments and services for diversion because of inability to pay.
<b>TAPE 94, B</b>		
047	Chair Burdick	Asks about those who cannot afford to pay for these diversion programs.
052	Skye	Responds with information on the requirements facing the state dealing with diversion programs.
064	Sen. Whitsett	Brings up the issue of inflation rates.
071	Skye	Replies that this is one of the reasons the OCDLA has no objections.
078	Sen. Beyer	Inquires about the sunset provision on the bill.
086	Taylor	Offers information on the sunset clause on SB 114.
102	Sen. Beyer	Asks when the surcharge goes away after the sunset clause, what occurs then (Section 3, 1A).
111	Taylor	Responds that he isn't sure.
116	Skye	Offers clarification on the sunset clause.
128	Taylor	Addresses the problems with the sunset clause.
147	Sen. Prozanski	Talks about section 3 on page 2 relating to the emergency clause.
157	Chair Burdick	Inquires about the difference between the \$136 and the \$112 in the bill.
159	Sen. Beyer	Replies that he isn't sure either.
168	Chair Burdick	Closes the public hearing on SB 113 and opens a public hearing on SB 368.

**SB 368 – PUBLIC HEARING**

170	Chair Burdick	Describes SB 368 relating to prohibiting audiovisual recording of motion pictures in motion picture theaters without consent of the theater owner. Introduces the -1 amendment ( <b>EXHIBIT D</b> ).
180	Amy Isbell	Vice President, State Legislative Affairs, Motion Picture Association. Testifies in support of SB 368.
220	Isbell	Advocates that the disruption of camcorder-wielding individuals is a vital step in halting piracy in their industry. Discusses the immunity language for theater owners in the drafting of the bill.
247	Isbell	Expresses their support of the -1 amendment.
252	Chair Burdick	Addresses the proposed amendment.
257	Isbell	Talks about the changes made in the amendment.
263	Sen. Walker	Asks how someone is discovered in a theater using a camcorder.
270	Isbell	Replies that there are watermarks for certain theaters that let their industry know where these movies are being taped. Discusses pre-release screenings employing law enforcement or metal-detecting “wands” to identify camcorders and other recording devices.
290	Isbell	Talks about the night-vision goggles used during the movie screening by some theater owners.
315	Sen. Walker	Brings up the possibilities of “wandering” people before a movie screening and the invasion of privacy issues this presents.
329	Isbell	Stresses that the movie-going experience is meant to be a positive one. Explains that they do not want those types of draconian tactics to be employed.
338	Chair Burdick	Closes the public hearing on SB 368 and opens a public hearing on SB 940.

**SB 940 – PUBLIC HEARING**

352	Sen. Prozanski	Describes SB 940 relating to requiring the sheriff to fix the date for foreclosure sales. Introduces the -1 amendment ( <b>EXHIBIT E</b> ).
370	Kristina McNitt	Oregon Water Resources Congress. Submits testimony and testifies in support of SB 940 ( <b>EXHIBIT F</b> ).
420	McNitt	Continues reading testimony in support of SB 940 dealing with the judgment form issued from the courts.
450	McNitt	Discusses the -1 amendment.
<b>TAPE 95, B</b>		
021	Sen. Prozanski	Inquires as to the differences between this process and other methods of foreclosure.
030	Anita Winkler	Executive Director, Oregon Water Resource Congress. Testifies in support of SB 940 and addresses the question relating to the difference between foreclosure methods.
044	Chair Burdick	Asks for a memorandum explaining the rationale in structuring the law in this way.
050	McNitt	Responds that they’d be happy to do such a thing, and discusses the opportunity for landowners to remedy this situation.
057	Sen. Prozanski	Advocates for uniformity in the different methods of foreclosure law.
071	McNitt	Agrees with Sen. Prozanski on this issue.
074	Chair Burdick	Asks for the justification for choosing the sheriff as the judge in these cases.
084	Sen. Whitsett	Inquires about shared ownership over water rights.
091	Winkler	Cites Oregon statutes relating to this issue on water rights.
106	Sen. Whitsett	Discusses the water rights inherent in owning the land.

111	Winkler	Clarifies the issue over ownership of the land not always being the owner of the water.
131	Sen. Whitsett	Stresses that you can't transfer the land without the water being transferred as well.
137	Winkler	Replies that there are transactions going on right now severing the water rights from the land.
138	Chair Burdick	Closes the public hearing on SB 940 and opens a public hearing on SB 114.

**SB 114 – PUBLIC HEARING**

149	Dave Heynderickx	Legislative Counsel. Discusses the drafting of SB 114 and the reasoning behind the choices on the bill.
190	Heynderickx	Continues discussion on the drafting choices for SB 114.
219	Chair Burdick	Asks if Mr. Heynderickx is convinced that the bill raises the fees for evaluators.
225	Heynderickx	Replies that, to his belief, it does.
231	Chair Burdick	Closes the public hearing on SB 114 and opens a work session on SB 114.

**SB 114 – WORK SESSION**

233	Sen. Starr	<b>MOTION: Moves SB 114 to the floor with a DO PASS recommendation.</b>
	Chair Burdick	<b>VOTE: 5-1-1</b>
		<b>AYE: 5 - Prozanski, Starr C., Walker, Whitsett, Burdick</b>
		<b>NAY: 1 - Beyer</b>
		<b>EXCUSED: 1 - Ringo</b>
247	Chair Burdick	<b>The motion CARRIES.</b>
		<b>SEN. BURDICK will lead discussion on the floor.</b>
250	Chair Burdick	Adjourns the meeting at 2:57 p.m.

**EXHIBIT SUMMARY**

- A. SB 953, written testimony, Bryan Boehringer, 1 p
- B. SB 114, written testimony, Teresa Douglas, 2 pp
- C. SB 114, written testimony, Sally Penna, 2 pp
- D. SB 368, -1 amendment, staff, 1 p
- E. SB 940, -1 amendment, staff, 1 p
- F. SB 940, written testimony, Kristina McNitt, 2 pp