

SENATE COMMITTEE ON JUDICIARY

June 01, 2005
1:00 P.M.

Hearing Room 343
Tapes 152 - 153

Corrected 10/26/05

MEMBERS PRESENT: Sen. Ginny Burdick, Chair
Sen. Roger Beyer
Sen. Floyd Prozanski
Sen. Charlie Ringo
Sen. Vicki Walker
Sen. Doug Whitsett

MEMBER EXCUSED: Sen. Charles Starr, Vice-Chair

STAFF PRESENT: Joe O'Leary, Counsel
Heidi Moawad, Counsel
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
HB 2977 – Public Hearing and Work Session
HB 2416A – Work Session
SB 1047 – Work Session
HB 2360 – Public Hearing
HB 2144 – Work Session
HB 2299 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 152, A		
002	Chair Burdick	Calls the meeting to order at 1:25 p.m. and opens a public hearing on HB 2977.
<u>HB 2977 – PUBLIC HEARING</u>		
005	Heidi Moawad	Counsel. Describes HB 2977 relating to establishing the Law Enforcement Medal of Honor.
014	Dan Swift	Oregon State Police Officers Association. Submits testimony and testifies in support of HB 2977 (EXHIBIT A).
033	Ken Johnson	Police Chief, Fairview, Oregon State Police Officers Association. Submits testimony and testifies in support of HB 2977 (EXHIBIT B).
049	Sen. Walker	Wonders who would award the medals, and how they would fund this honor.
055	Johnson	Replies that they would suggest to the Governor who should receive the bill and private donations would support the program.
068	Chair Burdick	Closes the public hearing and opens a work session on HB 2977.
<u>HB 2977 – WORK SESSION</u>		
071	Sen. Walker	MOTION: Moves HB 2977 to the floor with a DO PASS recommendation.
		VOTE: 6-0-1

074	Chair Burdick	EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.
076	Chair Burdick	Closes the work session on HB 2977.
081	Sen. Beyer	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on HB 2416A. VOTE: 6-0-1 EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
083	Chair Burdick	Opens a work session on HB 2416A.
089	Chair Burdick	
<u>HB 2416A – WORK SESSION</u>		
090	Sen. Beyer	MOTION: Moves to RECONSIDER the vote by which HB 2416A was sent to the floor DO PASS. VOTE: 6-0-1 EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
093	Chair Burdick	MOTION: Moves to ADOPT HB 2416A-A2 amendments dated 5/31/05. VOTE: 6-0-1 EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
096	Sen. Beyer	MOTION: Moves to RECONSIDER the vote by which HB 2416A was sent to the floor DO PASS. VOTE: 6-0-1 EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
100	Chair Burdick	MOTION: Moves HB 2416A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 6-0-1 EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
101	Sen. Beyer	MOTION: Moves HB 2416A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 6-0-1 EXCUSED: 1 - Starr Hearing no objection, declares the motion CARRIED.
103	Chair Burdick	SEN. RINGO will lead discussion on the floor.
105	Chair Burdick	Closes the work session on HB 2416A and opens a work session on SB 1047.
<u>SB 1047 – WORK SESSION</u>		
101	Joe O’Leary	Counsel. Describes SB 1047 relating to creating the authority for the fatality review teams to review the records related to domestic violence fatalities for the purpose of preventing future fatalities.
142	Sen. Walker	MOTION: Moves to ADOPT SB 1047-1 amendments dated 6/1/05.
145	Sen. Beyer	Agrees with the intent with the bill, but has serious problems with the altering of the majority required to pass the issues from the committee.
179	Sybil Hebb	Oregon Law Center. Addresses the changes discussed by Sen. Beyer.
221	Sen. Prozanski	Inquires why the number for successfully passing an issue from the committee was chosen to be 3/5.
224	Hebb	Declares that there is a certain arbitrariness to the choice, although it was suggested by several groups.
255	Chair Burdick	VOTE: 4-2-1 AYE: 4 - Prozanski, Ringo, Walker, Burdick NAY: 2 - Beyer, Whitsett EXCUSED: 1 - Starr C. The motion CARRIES.
262	Chair Burdick	MOTION: Moves SB 1047 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 5-1-1 AYE: 5 - Prozanski, Ringo, Walker, Whitsett,
265	Sen. Walker	

Burdick

NAY: 1 - Beyer

EXCUSED: 1 - Starr C.

The motion CARRIES.

SEN. BURDICK will lead discussion on the floor.

274 Chair Burdick

279 Chair Burdick

Closes the work session on SB 1047 and opens a public hearing on HB 2360.

HB 2360 – PUBLIC HEARING

282 Heidi Moawad

Counsel. Describes HB 2360 relating to imposing a fine and mandatory imprisonment for a person convicted of driving while under the influence of intoxicants if the person had a 0.20 percent or more by weight of alcohol in blood of the person at the time of the offense.

308 Brad Berry

Yamhill County District Attorney. Testifies in support of HB 2360.

345 Berry

Talks about the increased danger resulting from a higher blood alcohol level than 0.08 percent.

384 Gina Skinner

Washington County District Attorney's Office. Testifies in support of HB 2360. Stresses that these cases involving high levels of alcohol content are more frequent than you might imagine. In order to function at this level of intoxication in any fashion.

417 Chair Burdick

Asks how common these high levels of intoxication are for first offenders.

421 Skinner

Replies that it is not an uncommon occurrence.

TAPE 153, A

007 Chair Burdick

Wonders how much alcohol you must consume to arrive at this level of intoxication.

012 Jeff Rost

Forensic Supervisor, Oregon State Police. Submits testimony and testifies in support of HB 2360 (**EXHIBIT C**). Addresses the question as to how much drinking must be done to arrive at certain levels of intoxication.

040 Sen. Prozanski

Comments on the Mothers Against Drunk Driving program in the Eugene District Attorney's Office that documented the lawyers drinking certain amounts of liquor in an hour, and the correlation to the blood alcohol percentage.

056 Berry

Talks about the programs mentioned by Sen. Prozanski, and states that it is disconcerting to see the numbers relating to drunk driving.

070 Rost

Stresses that the top 13% of the tests administered are in the range of 0.20 or above blood alcohol percentage.

083 Sen. Prozanski

Discusses the propensity of those being tested at 0.17 or above are alcoholics/binge drinkers.

098 Rost

Declares that this is the intent of the bill: getting the major drinkers off the road. States that the average blood alcohol content for those arrested for drinking while under the influence of intoxicants is 0.15 percent.

131 Skinner

Talks about the different effects of the different types of alcohol.

147 Sen. Ringo

Asks about jail space, and who is likely to walk if this bill passed.

149 Berry

Comments on the jail space problem that many counties face. States that the individuals who have probation violations would be the most likely candidate to be released early to make room for these new offenders.

180 Sen. Ringo

Raises his concern that treatment is what is needed for these

196	Berry	people as opposed to just placing them in jail. Stresses that the individuals who are stealing cars, stereos, etc; rarely present as much danger to other drivers as those they would be placing in jail.
206	Sen. Ringo	Agrees with that assessment, but stresses that we're taking people who need treatment and placing them in jail, and those who need to be in jail are being released early. Asserts that they can always change the laws, but when does the state remain satisfied with the laws as they are and try to work within their limits.
221	Skinner	Declares that they might never know when they are at that point, and talks about the graduation from minor offenses to major time in prison. Discusses the inconsistencies among the counties for the gradations of jail time for these offenders.
241	Sen. Ringo	States that this bill deals with first time offenders.
246	Skinner	Clarifies the effects of the bill: how the bill mainly deals with second or third time offenders.
263	Sen. Ringo	Inquires why judicial discretion is disregarded.
268	Berry	Addresses the earlier comment relating to the lack of consistency across the state, and increased judicial discretion would add to that.
275	Sen. Ringo	Talks about how they should trust their judges to determine who should be in prison.
278	Berry	Replies that the judges are part of the discussions on who would be released from the prisons to make room for these drunk drivers.
287	Sen. Ringo	Expresses his reluctance to continually bring bill after bill increasing the penalties for drunk driving: does not believe that this type of prevention is the answer.
295	Moawad	Comments on the discussion from the House Judiciary Committee on this bill.
303	Sen. Whitsett	Asks what sanction is applied to the detainee when they refused a breath or blood test.
309	Berry	Responds that an increased suspension of the license and a mandatory fine of \$500 exist for refusing the breath or blood test.
318	Sen. Whitsett	Wonders how many people would accept the breath test if they believed they might be above a 0.20 percentage if they only face a \$500 fine as opposed to the \$2500 fine if they blew above a 0.20 percentage.
325	Rost	Explains many of these individuals would not believe they would blow such a blood alcohol level.
370	Rost	Testifies on the fiscal aspect of this bill. Talks about the refusal to submit to a breath test: an administrative suspension of the individuals driving privileges.
415	Rost	Talks about the cases where time has elapsed between the offense of driving under the influence and the administration of the breathalyzer test and how the prosecution has to prove that the blood alcohol was over the legal limit at the time of the offense.
TAPE 152, B		
023	Sen. Walker	Inquires about the fiscal statement for this bill.
028	Moawad	Discusses the fiscal analysis: indeterminate as of yet.
054	Skinner	Talks about how the cases involving such levels of intoxication are rarely sent to trial: the individuals know they are guilty.
060	Berry	Comments on the desire of the District Attorney's office to actively go after the individuals with the highest blood alcohol

081	Vinita Howard	levels. Governor's Advisory Committee on Driving Under the Influence of Intoxicants. Submits testimony and testifies in support of HB 2360 (EXHIBIT D).
130	Ann Pratt	Governor's Advisory Committee on Driving Under the Influence of Intoxicants. Submits testimony and testifies in support of HB 2360 (EXHIBIT E).
180	Bruce Pratt	Crime Victims United. Submits testimony and testifies in support of HB 2360 (EXHIBIT F).
230	B. Pratt	Continues reading testimony in support of HB 2360 (Exhibit F).
263	Chair Burdick	Closes the public hearing on HB 2360 and opens a work session on HB 2144.

HB 2144 – WORK SESSION

266	Heidi Moawad	Counsel. Describes HB 2144 relating to modifying the conditions of probation for persons previously convicted of a sex offense. Introduces and discusses the -1 amendment (EXHIBIT G).
295	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in a neutral position on the bill and the amendment.
311	Scott Taylor	Department of Corrections. Testifies in hesitant support of HB 2144 with the -1 amendment: fully approves the original bill.
329	Sen. Walker	MOTION: Moves to ADOPT HB 2144-1 amendments dated 5/31/05.
331	Sen. Walker	Talks about her stance on the bill.
366	Sen. Prozanski	Comments on the effects of the -1 amendment.
369	Chair Burdick	Clarifies the questions about the -1 amendment.
378	Sen. Walker	Declares that there is a pattern among young people who commit sex offenses as children who then commit offenses as an adult.
400	Sen. Beyer	States his preference for the original bill. Asks about the expunction of a juvenile record.
409	Moawad	Replies that it would not be readily accessible in the future.
420	Sen. Prozanski	States that he believes all sex offenses are normally able to be expunged, no matter the age.
435	Sen. Prozanski	Talks about the treatment or program for the youth offenders.
TAPE 153, B		
014	Moawad	Discusses the resources being much taxed, and how a probation officer would not be throwing this onto an offense 30 years later.
026	Sen. Walker	MOTION: WITHDRAWS the MOTION to ADOPT HB 2144-1 amendments dated 5/31/05.
		VOTE: 6-0-1
		EXCUSED: 1 - Starr
274	Chair Burdick	The motion CARRIES.
048	Chair Burdick	Closes the work session on HB 2144 and opens a public hearing on HB 2299.

HB 2299 – PUBLIC HEARING

050	Heidi Moawad	Counsel. Describes HB 2299 relating to requiring a person relieved of the duty to report as a sex offender to provide to the Department of State Police copy of the court order relieving the person of duty. Introduces and describes the -1 amendment (EXHIBIT H).
079	Dan Malin	Oregon State Police. Submits testimony and testifies in support of HB 2299 (EXHIBIT I).
119	Malin	Talks about the registration requirements for convicted sex

147	Malin	offenders in Oregon. Discusses the registered sex offenders who are signed up for University classes.
196	Lori Sattenspiel	Oregon Community College Association. Submits testimony and testifies in support of HB 2299 (EXHIBIT J).
210	Chair Burdick	Closes the public hearing on HB 2299. Moves HB 2142A, HB 2297, HB 2361A to Thursday, June 2, 2005. Adjourns the meeting at 3:03 p.m.

EXHIBIT SUMMARY

- A. **HB 2977, written testimony, Dan Swift, 2 pp**
- B. **HB 2977, written testimony, Ken Johnson, 1 p**
- C. **HB 2360, written testimony, Jeff Rost, 2 pp**
- D. **HB 2360, written testimony, Vinita Howard, 2 pp**
- E. **HB 2360, written testimony, Anne Pratt, 3 pp**
- F. **HB 2360, written testimony, Bruce Pratt, 1 p**
- G. **HB 2144, -1 amendment, staff, 1 p**
- H. **HB 2299, -1 amendment, staff, 26 pp**
- I. **HB 2299, written testimony, Dan Malin, 7 pp**
- J. **HB 2299, written testimony, Lori Sattenspiel, 1 p**
- K. **HB 2416A, -A2 amendment, staff, 3 pp**
- L. **SB 1047, -1 amendment, staff, 2 pp**