

HOUSE COMMITTEE ON JUDICIARY

April 24 2003 Hearing Room 357

1:00 pm Tapes 159 - 162

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman, Vice-Chair
 Rep. Gordon Anderson, Vice-Chair
 Rep. Jeff Barker
 Rep. Bob Jenson
 Rep. Jerry Krummel
 Rep. Greg Macpherson
 Rep. Floyd Prozanski
 Rep. Lane Shetterly

STAFF PRESENT: Bill Joseph, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD: **HB 3329 Reconsideration and Work Session**
 HB 3193 Work Session
 HB 2569 Work Session
 HB 3389 Work Session
 HB 2638 Work Session
 HB 2756 Work Session
 HB 2802 Work Session
 HB 3250 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
TAPE 159, A		
004	Chair Williams	Opens meeting at 1:10 pm. Opens work session on HB 3329.
		<u>HB 3329 Possible Reconsideration and Work Session</u>
010	Rep. Williams	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 3329.
		VOTE: 9-0
012	Chair Williams	Hearing no objection, declares the motion CARRIED.
015	Rep. Williams	MOTION: Moves to RECONSIDER the vote by which HB 3329 was sent to the Floor Do Pass.
		VOTE: 9-0
018	Chair Williams	Hearing no objection, declares the motion CARRIED.
022	Kate Richardson	Chief of Staff, Oregon State Treasury. Testifies in support of HB 3329 which authorizes Department of Justice to initiate and participate in efforts to prepare for, and to assist in, delivery of services to individuals traumatized by acts of mass violence, and submits the -1 amendment (EXHIBIT A).
025	Fred Boss	Department of Justice. Testifies in support of HB 3329-1 amendment.
050	Chair Williams	Summarizes the amendments.
100	Cheryl Pellegrini	Department of Justice. Testifies in support of the HB 3329 -2 amendments and submits testimony Staff submits HB 3329-3

120 Chair Williams amendment (**EXHIBITS B, B-1, and C**). Gives background on the no call law. Says HB 3329 will allow one list for all states for telemarketers.
 Recesses work session on HB 3329. Opens work session on HB 3193 which reclassifies certain crimes against animals to double maximum fine when crime is committed as part of single criminal episode involving eight or more animals, with each animal being subjected to one or more of certain crimes..

HB 3193 WORK SESSION

125 Rep. Brad Avakian House District 34. Testifies in support of HB 3193 and submits written testimony (**EXHIBIT D**)..
 135 Bill Taylor Committee Counsel. Discusses and submits the -1 amendments (**EXHIBIT E**).
 264 Chuck Taylor Legislative Counsel. Clarifies HB 3193.
 275 Rep. Barker Notes the language does not seem appropriate.
 344 Rep. Shetterly Asks why “immediate presence” is part of the language.
 355 Rep. Avakian Clarifies intent of the bill.
 365 Chair Williams Asks Rep. Shetterly, Rep. Prozanski and Rep. Avakian to work on the language. Closes work session on HB 3193. Reconvenes work session on HB 3329.

HB 3329 WORK SESSION

400 Cheryl Pellegrini Resumes presentation on state no-call and federal data base. Describes what could happen with less than full state participation.

TAPE 160, A

020 Pellegrini Continues explaining lists as well as state and federal programs.
 037 Rep. Barker Asks if the list comes out of Oregon.
 057 Brant Wolf Oregon Telecommunications Association. Testifies in opposition to the -2 amendments and submits testimony (**EXHIBITS F**).
 136 Rep. Krummel Asks what happens if the federal government pre-empts what the state is doing.
 146 Wolf If the program is pre-empted, it goes away from the state. Says he belongs to the Oregon no call programs and intends to subscribe to the federal no call program.
 195 Rep. Barker Discusses pre-emption by the federal government. Asks why the local program should be kept.
 202 Elise Brown American Telephone and Telegraph (AT&T). Testifies in support of HB 3329 which would remove the administration of the Oregon no call program to the jurisdiction of the Federal Trade Commission (FTC).
 229 Rep. Shetterly **MOTION: Moves to ADOPT HB 3329-1 amendments dated 4/24/03.**
VOTE: 9-0
 230 Chair Williams **Hearing no objection, declares the motion CARRIED.**
 232 Rep. Prozanski **MOTION: Moves to ADOPT HB 3329-2 amendments dated 4/24/03.**
VOTE: 8-0-1
EXCUSED: 1 – Jenson
 233 Chair Williams **Hearing no objection, declares the motion CARRIED.**
 234 Rep. Prozanski **MOTION: Moves to ADOPT HB 3329-3 amendments dated 4/24/03.**
VOTE: 9-0
 236 Rep. Prozanski **MOTION: Moves HB 3329 to the floor with a DO PASS AS**

237 Chair Williams **AMENDED recommendation.**
VOTE: 7-2-0
AYE: 7 - Ackerman, Barker, Krummel,
Macpherson, Prozanski, Shetterly, Williams
NAY: 2 - Anderson, Jenson

238 Chair Williams **The motion CARRIES.**
REP. PROZANSKI will lead discussion on the floor.

240 Chair Williams Closes work session on HB 3329. Opens work session on HB 2569.

HB 2569 WORK SESSION

290 Rep. Mary Gallegos House District 29. Testifies in support of HB 2569 which creates crime of interference with agricultural operations in first degree and submits testimony (**EXHIBIT G**).

340 Vice Chair Ackerman Asks what the source of material was for the bill.

345 Rep. Gallegos Responds that the sources were reports from the Agriculture Committee on Midwest Conference on Agriculture.

TAPE 159, B

030 Vice Chair Ackerman Asks what the specific devices were as far as definitions.

049 Rep. Jenson Discusses chemical or biological releases into crops with intent. Has a concern with the level of punishment.

055 Rep. Gallegos Says defining devices is supported.

100 Susan Russell Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2569. Objects to criminalizing conduct. Terms in bill are unclear. SB 24 addresses specifically intent to harm.

166 Andrea Meyer American Civil Liberties Union (ACLU). Testifies in opposition to HB 2569. States this is a terrorism bill and there is no need for this bill. Explains the language is vague in the bill.

234 Rep. Krummel Gives example of destruction of bunker killing people.

263 Rep. Prozanski Asks if there are federal laws because of the 9-11 event.

264 Russell Says she will find out.

282 Rep. Macpherson Refers to tampering with “food supply” events in urban areas.

323 Chair Williams Closes work session on HB 2569. Opens work session on HB 3389.

HB 3389 WORK SESSION

350 Mike Dugan Deschutes County District Attorney. Testifies in support of HB 3389 which provides additional means of establishing identity of controlled substance in prosecutions involving controlled substances. Says the bill will save costs in testing and will allow earlier disposition of programs. It does not cause defendant more risk.

385 Susan Russell Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 3389. Early disposition can be achieved by programs rather than testing. Opposes defendant paying for testing.

TAPE 160, B

030 Russell Continues discussing testing.

060 Chair Williams Comments that forensic scientists are not hired in cases. If the case goes to trial, the state will then get scientific testing.

112 Rep. Shetterly Discusses the cost shift is not necessarily gaining that much by

130	Rep. Prozanski	assessing the defendant the cost. Comments there is a question if the court has the ability to provide the test or the defendant the ability to pay. Discusses the cost of prosecution.
160	Russell	Discusses the issues related to the defendant paying part of the prosecution costs.
174	Dugan	Comments that the Oregon constitution gives a right to a defendant to have their case considered by a grand jury before it can be prosecuted. The defendant can waive grand jury. The defendant may not qualify for a drug court or may reject early disposition program, and that is why the legislation is important.
195	Rep. Barker	Testifies that this bill cuts out some unnecessary expense.
199	Rep. Shetterly	MOTION: Moves to conceptually AMEND HB 3389 on page 1, line 22, deleting "If the analysis" and through lines 23 and 24" .
		VOTE: 9-0
200	Chair Williams	Hearing no objection, declares the motion CARRIED.
202	Rep. Barker	MOTION: Moves HB 3389 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-2-0
		AYE: 7 - Ackerman, Anderson, Barker, Krummel, Macpherson, Shetterly, Williams
		NAY: 2 - Jenson, Prozanski
204	Chair Williams	The motion CARRIES.
		REP. BARKER will lead discussion on the floor.
206	Chair Williams	Closes work session on HB 3389. Opens work session on HB 2638.

HB 2638 WORK SESSION

210	Bill Taylor	Committee Counsel. Describes 2001 Session streamlining appeals from the Parole Board. Submits the -4 amendments (EXHIBIT H) .
264	Peter Gartland	Office of Public Defense Services. Discusses HB 2638 which allows county or city to retain one-half of traffic offense fines that would otherwise be paid to state if retained amounts are used solely for purpose of paying costs and expenses incurred by justice court or municipal court in prosecuting crimes and conducting contempt and probation violation proceedings.

TAPE 161, A

033	Diane Rea	Chair, Board of Parole and Post-Prison Supervision. Testifies in opposition to HB 2638. States, if the system is changed to discretion of court, it will impact the agency budget.
081	Jim Nass	Appellate Legal Counsel. Says the Court of Appeals supports HB 2638 as a cost savings measure. Supports the amendment.
137	Chair Williams	Refers to last legislative session when this bill was presented and asks parties to respond to fiscal impact. Closes the work session on HB 2638. Opens work session on HB 2756.

HB 2756 WORK SESSION

150	Bill Taylor	Committee Counsel. Explains HB 2756 which modifies provisions relating to relief from requirement to report as sex offender based on juvenile adjudication. Submits the -2 and -3 amendments (EXHIBITS I and J) .
213	Tim Travis	Oregon Judicial Department. Testifies in support of the -2 and -3 amendments which will lower the fiscal impact. Describes the -2

and -3 amendments.

244 Susan Russell Oregon Criminal Defense Lawyers Association (OCDLA).
Supports both amendments.

245 Rep. Prozanski **MOTION: Moves to ADOPT HB 2756-2 amendments dated 4/24/03.**
VOTE: 6-0-3
EXCUSED: 3 - Barker, Krummel, Macpherson
Hearing no objection, declares the motion CARRIED.

246 Chair Williams
247 Rep. Prozanski **MOTION: Moves to ADOPT HB 2756-3 amendments dated 4/24/03.**
VOTE: 6-0-3
EXCUSED: 3 - Barker, Krummel, Macpherson
Hearing no objection, declares the motion CARRIED.

248 Chair Williams
249 Rep. Prozanski **MOTION: Moves HB 2756 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 6-0-3
EXCUSED: 3 - Barker, Krummel, Macpherson
Hearing no objection, declares the motion CARRIED.

250 Chair Williams **REP. SHETTERLY will lead discussion on the floor.**

252 Chair Williams Closes work session on HB 2756. Opens work session on HB 2802.

HB 2802 WORK SESSION

255 Bill Taylor Committee Counsel. Explains HB 2802 which expands crime of arson in first degree. Explains and submits the -2 amendments **(EXHIBIT K).**

260 Ken Armstrong Oregon Fire Chiefs Association and Tualatin Valley Fire and Rescue. Testifies in support of the -2 amendments and explains what they do.

265 Susan Russell Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 2802 with the -2 amendments.

269 Rep. Prozanski **MOTION: Moves to ADOPT HB 2802-2 amendments dated 4/24/03.**
VOTE: 7-0-2
EXCUSED: 2 - Barker, Macpherson
Hearing no objection, declares the motion CARRIED.

272 Chair Williams
274 Rep. Prozanski **MOTION: Moves HB 2802 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the Committee on Ways and Means.**
VOTE: 7-0-2
EXCUSED: 2 - Barker, Macpherson
Hearing no objection, declares the motion CARRIED.

275 Chair Williams

276 Chair Williams Closes work session on HB 2802. Opens work session on HB 3250.

HB 3250 WORK SESSION

280 Bill Taylor Committee Counsel. Explains HB 3250 which permits court to require security, bond or other guarantee from person who will travel with minor child in another country if parent, grandparent or guardian requests court order and court find existence of certain circumstances. Explains the -5 amendments **(EXHIBIT L).**

318 Nancy Miller Oregon Judicial Department. Testifies in support of HB 3250.

323	Chair Williams	Explains some things have been removed to narrow the bill. Says the fiscal impact will be very minimal. Asks if there is objection to changing “or” to “and” on line 23, page 2.
TAPE 162, A		
040	Chair Williams	Hears no objection.
042	Miller	Expresses appreciation of the work group’s consensus.
081	Chair Williams	MOTION: Moves to suspend the rules to conceptually change amendments page 2, line 23, by changing ""or" to "and". VOTE: 7-0-2 EXCUSED: 2 - Barker, Macpherson
082	Chair Williams	Hearing no objection, declares the motion CARRIED.
083	Chair Williams	MOTION: Moves to ADOPT HB 3250-5 as conceptually amended. VOTE: 7-0 EXCUSED: 2 - Barker, Macpherson
084	Chair Williams	Hearing no objection, declares the motion CARRIED.
085	Rep. Prozanski	MOTION: Moves HB 3250 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 7-0-2 EXCUSED: 2 - Barker, Macpherson
086	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. ANDERSON will lead discussion on the floor.
089	Staff	Submits testimony in support of HB 3250-5 from Laura Butterfield (EXHIBIT M).
090	Chair Williams	Closes the work session on HB 3250 and adjourns meeting at 3:26 pm.

EXHIBIT SUMMARY

- A – HB 3329-1 amendment, Kate Richardson, 3 pp**
- B – HB 3329-2 amendment, Cheryl Pellegrini, 2 pp**
- B-1 – HB 3329-3 amendment, staff, 1 p**
- C – HB 3329, written testimony, Cheryl Pellegrini, 3 pp**
- D – HB 3193, written testimony, Rep. Brad Avakian, 6 pp**
- E – HB 3193-1 amendment, staff, 2 pp**
- F – HB 3329, written testimony, Brant Wolf, 14 pp**
- G – HB 2569, written testimony, Rep. Mary Gallegos, 14 pp**
- H – HB 2638-4 amendment, staff, 5 pp**
- I – HB 2756-2 amendment, staff, 1 p**
- J – HB 2756-3 amendment, staff, 4 pp**
- K – HB 2802-2 amendment, staff, 15 pp**
- L – HB 3250-5 amendment, staff, 3 pp**
- M – HB 3250, written testimony of Laura Butterfield, staff, 4 pp**