

## CONFERENCE COMMITTEE ON HB 2368C

August 25, 2003 Hearing Room

9:00 AM Tapes 1 - 2

**MEMBERS PRESENT:**        **Rep. Betsy Close, Chair**  
                                 **Rep. Rob Patridge**  
                                 **Rep. Joanne Verger**  
                                 **Sen. Kate Brown**  
                                 **Sen. John Minnis**

**STAFF PRESENT:**        **Marjorie Taylor, Committee Administrator**  
                                 **Linda K. Gatto, Committee Assistant**

**MEASURE HEARD:**        **HB 2368 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 1, A</b>		
003	Chair Close	Calls the conference committee on HB 2368 to order at 9:08 a.m.
<b>HB 2368 WORK SESSION</b>		
005	Marjorie Taylor	Committee Administrator. Explains that HB 2368 makes technical changes to the cigarette and tobacco product taxes. Introduces HB 2368C -39 through -C42 amendments, <b>(EXHIBIT A)</b> and -C43 amendments <b>(EXHIBIT B)</b> , and -C44 <b>(EXHIBIT C)</b> .
021	Chair Close	Refers to the state comparison chart, <b>(EXHIBIT D)</b> .
030	Pete Shepard	Deputy Attorney General. Presents testimony in favor of HB 2368C-43 amendments. Discusses HB 2094, the non-participating manufacturers statute currently awaiting the Governor's consideration.
055	Sen. Brown	Asks if it can assumed that the Governor will not veto the bill with the --C43 amendments.
065	Shepard	Responds that he can only speak for the Attorney General but he has no reason to see why the Attorney General's office would recommend a veto. States that they have expressed their policy position regarding the cap question in the -C44 amendments and adds that the Attorney General would not recommend a veto on the -C44 amendments.
077	Rep. Verger	Clarifies that the -C44 amendments does not state a cap.
081	Shepard	Responds that the Attorney General's office does not support the -C44 because it is not consistent with their policy position, however, they would not recommend a veto if the -C44 became part of the bill.
094	Jim Garner	Attorney, for Garner and Garner, appearing for Phillip Morris. Testifies in support in of the -C43 amendments. Discusses the -C44 amendments cap at \$150 million
124	Sen. Brown	Asks why the state of Washington is not on the list, <b>(EXHIBIT D)</b> .

127	Garner	Answers that the issue needs to be addressed by court rule amendment. There is a proposal before the Washington Supreme Court for \$100 million.
134	Sen. Brown	Request a response to concerns regarding issues of harassment.
140	Garner	Responds it is an essential element similar to the Private Right of Action that is present in similar statutes. Explains that the Attorney General is limited in terms of how much enforcement they can bring and some problems arise in foreign venues.
150	Garner	States for the record that there is no intention to use this tool as a harassment device but rather to ensure adequate enforcement of the law. Notes 40% of all cigarettes consumed in Oregon are illegitimate
162	Rep. Verger	Expresses there is a concern of trust.
168	Garner	Responds there are ample court remedies to address harassment issues.
179	Sen. Minnis	Opposes the Attorney General using outside counsel on contingency fee agreements. Asks if it would be a problem if non-participating manufacturers were harassed.
211	Garner	Responds affirmatively that efforts continue to be coordinated in a responsible manner.
222	Sen. Brown	Confirms that current laws are adequate.
224	Garner	Affirmative.
230	Marshall Coba	Council of Independent Tobacco Manufacturers of America, (CITMA). Testifies in support of the –C39 amendments and discusses <b>(EXHIBIT E)</b> . States these are fairness amendments, notes specifically; <ul style="list-style-type: none"> <li>• Eliminate right of action on escrow.</li> <li>• Emphasizes that these are not general funds.</li> <li>• Leaves the enforcement with the Department of Justice.</li> </ul>
332	Coba	Discusses the Master Settlement Agreement, (MSA) payments.
360	Sen. Minnis	States that these arguments were presented to the Senate Judiciary Committee and rejected.
378	Coba	Responds that the reason is to maintain a presence in the market rather than being removed from the market.
387	Rep. Verger	Asks if he has seen the position paper from the Department of Justice.
388	Coba	Answers no. Continues with testimony.
410	Mark Nelson	Representing RJ Reynolds Tobacco. Submits and reviews <b>(EXHIBIT F)</b> . Discusses HB 2094.
<b>TAPE 2, A</b>		
037	Sen. Brown	Asks if the Oregon Rules of Civil Procedure and Oregon Statutes are adequate to prevent frivolous lawsuits.
045	Nelson	Answers it is his understanding that they will provide the protection that Mr. Coba is concerned about.
044	Sen. Brown	Asks when is a deal a deal.
048	Nelson	Responds that it is his understanding that the non participating manufacturers were invited to participate. Agreements were made between the National Association of Attorney General and the participating providers, but, non-participating manufacturers can join and be a participating provider and pay into the master settlement agreement. Notes he is unsure if there is a deadline to apply.
059	Rep. Verger	Refers to Sections 72 and 82 regarding delivery to minors. Notes

		that as Oregon works to enforce prevention of supply to minors, asks that there not be any back door efforts to undermine these efforts.
084	Nelson	Responds that they are in support of HB 2368 and HB 2094 as a enforcement tool to recover a loss of almost \$100 million a year and prevent the sale to minors.
083	Chair Close	Concludes invited testimony.
092	Rep. Patridge	<b>MOTION: Moves to ADOPT HB 2368C-43 amendments dated 8/18/03.</b>
095		<b>VOTE: 5-0</b>
	Chair Close	<b>Hearing no objection, declares the motion CARRIED.</b>
096	Rep. Patridge	<b>MOTION: Moves to ADOPT HB 2368C-44 amendments dated 8/23/03.</b>
097	Rep. Patridge	Comments that it is his opinion that the bonding amount is too high.
112		<b>VOTE: 5-0</b>
	Chair Close	<b>AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.</b>
119	Rep. Patridge	<b>MOTION: Moves HB 2368C to the floor with the recommendation that the Senate CONCUR in House amendments dated 07/24/03 and that the bill be FURTHER AMENDED by the -C43 and -C44 amendments and the measure be REPASSED.</b>
121		<b>VOTE: 5-0</b>
	Chair Close	<b>AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.</b>
		<b>PATRIDGE will lead discussion on the House floor.</b>
		<b>MINNIS will lead discussion on the Senate floor.</b>
130	Chair Close	Adjourns the meeting at 9:48 a.m.

### EXHIBIT SUMMARY

- A. HB 2368C-39 amendments dated 8/13/03, HB 2368C-40 amendments dated 8/18/03 and correspondence, HB 2368C-41 amendments dated 8/18/03, and HB 2368C-42 amendments dated 8/18/03, staff, 25 pp**
- B. HB 2368C-43 amendments dated 8/18/03, Pete Shepard, 3 pp**
- C. HB 2368C-44 amendments dated 8/18/03, Senator Minnis, 5 pp**
- D. State comparison chart, Rep. Betsy Close, 3 pp**
- E. HB 2368C, written testimony, Marshall Coba, 13 pp**
- F. HB 2368C, written testimony, Mark Nelson, 4 pp**