

SENATE COMMITTEE ON JUDICIARY

April 30, 2003
8:00 a.m.

Hearing Room 343
Tapes 114-115

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Ginny Burdick, Vice-Chair
 Sen. Ted Ferrioli
 Sen. Charles Starr
 Sen. Vicki Walker

MEMBER EXCUSED: **Sen. Charlie Ringo**

STAFF PRESENT: **Craig Prins, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2811A Public Hearing**
 SB 894 Public Hearing
 SB 895 Public Hearing
 HB 3339A Public Hearing
 HB 2034A Public Hearing
 HB 2821A 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.

TAPE/#	Speaker	Comments
TAPE 114, A		
003	Chair Minnis	Calls the meeting to order at 8:10 a.m. and opens a public hearing on HB 2811A.
<u>HB 2811A PUBLIC HEARING</u>		
007	Rep. Lane Shetterly	House District 23. Introduces HB 2811A that expands definition of minimum care with regard to non-ambulatory livestock animals for purposes of certain criminal statutes, and testifies in support of HB 2811A.
025	Chair Minnis	Closes the public hearing on HB 2811A and opens a public hearing on SB 894.
<u>SB 894 PUBLIC HEARING</u>		
029	Sen. Ryan Deckert	Senate District 14. Submits testimony and testifies in support of SB 894 that provides that active or inactive member's interest in Public Employees Retirement System is not exempt from execution issued to enforce monetary obligation imposed under judgment of conviction of felony that is related to member's employment by participating public employer (EXHIBIT A).
063	Vice Chair Burdick	Asks about a public employee that is accused of failing to do his/her duty.
070	Sen. Deckert	Explains what needs to occur for this legislation to take effect.
086	Vice Chair Burdick	Asks if any of the funds fined get to the victim.

092	Bill Taylor	Committee Counsel. Explains that there are fines as well as restitution, and it all depends on the court order.
109	Wayne Harvey	Beaverton, OR. Testifies in support of SB 894. Discusses a case at Conestoga Middle School.
155	Chair Minnis	Wonders about the defendant's spouse or dependent children who have needs.
179	Harvey	Talks about his experience in the Army where a crime committed immediately before retirement created a forfeiture of retirement pay.
202	Steve Delaney	Public Employees Retirement System, Legislative liaison. Discusses the definition of benefits in the bill.
219	Chair Minnis	Thinks there needs to be some clarification of what benefits would be affected by federal law.
221	Delaney	Says he is unable to answer that question, but will bring a report back to the committee.
231	Sen. Walker	Expresses concern about benefits being taken away from dependents.
255	Vice Chair Burdick	Wonders about the current process regarding fines short of raiding a pension fund.
282	Sen. Ferrioli	Expresses concern that we might be creating more victims with this legislation.
307	Mary Botkin	American Federation of State, County and Municipal Employees. Testifies in opposition to SB 894. Says there are applicability issues with this bill.
369	Vice Chair Burdick	Explains the burdensome process involved in dealing with this legislation.
401	Chair Minnis	Closes the public hearing on SB 894 and opens a public hearing on SB 895.

SB 895 PUBLIC HEARING

408	Sen. Bill Morrisette	Senate District 6. Introduces SB 895 that increases criminal penalties for selling, giving or otherwise providing alcoholic beverages to person under 21 years of age, and testifies in support of the bill.
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TAPE 115, A

031	Pamela Erickson	Coalition to Reduce Underage Drinking. Submits testimony and testifies as neutral on SB 895 (EXHIBIT B).
079	Vice Chair Burdick	Asks for clarification of how a parent would be penalized under this legislation.
090	Erickson	Explains that the issue of parents providing alcohol to their children was designed to recognize those cultures where wine is served with the meal and a child learns the proper use of alcohol at their own dinner table.
098	Bill Taylor	Committee Counsel. Asks about religious custom.
100	Erickson	Responds that she believes there is some allowance for that.
105	Chair Minnis	Explains that the bill seems rather unclear and that it might need to be reconstructed.
112	John Stubenvoll	Oregon Liquor Control Commission. Submits testimony and testifies in support of SB 895 (EXHIBIT C). Gives an overview and suggests -1 amendments which are not yet available to the committee.
189	Vice Chair Burdick	Asks for elaboration on the religious exemption.
192	Stubenvoll	Replies that there is an exemption, but will have to get back to the committee on that subject.
207	Chair Minnis	Closes the public hearing on SB 895 and reopens the public

hearing on HB 2811A and opens a public hearing on HB 3339A.

HB 2811A AND HB 3339A PUBLIC HEARING

224	Kelly Peterson	The Humane Society of the United States. Submits testimony and testifies in support of HB 2811A and HB 3339A (EXHIBIT D).
253	Glen Stonebrink	Oregon Cattlemen's Association. Testifies in support of HB 2811A and HB 3339A.
262	Sen. Ferrioli	Asks for a definition of humane euthanasia.
288	Stonebrink	Explains that any rancher would know the humane way to dispose of an animal.
307	Peterson	Says it is an acceptable practice.
329	Chair Minnis	Asks what the problem is that needs to be fixed by HB 3339A.
342	Peterson	Explains that there are animals that are not ambulatory being transported inhumanely for trade.
380	Stonebrink	Says the president of the livestock association testified in the House committee that this bill would help them prevent this practice.
402	Marcia Keith	Oregon Veterinary Medical Association. Submits testimony and testifies in support of HB 2811A and HB 3339A (EXHIBITS E and F).
413	Vice Chair Burdick	Asks if the symptoms of Mad Cow Disease would be similar to other downed animal symptoms.
420	Stonebrink	Explains the need to dispose of such an animal, but advises that there is no disease of this kind in the United States at this time.

TAPE 114, B

020	Sen. Walker	Asks if the Humane Society is supporting a bill that would allow shooting an animal.
024	Peterson	Explains that shooting is more humane than long-term suffering.
054	Chair Minnis	Closes the public hearing on HB 2811A and HB 3339A and opens a public hearing on HB 2034A.

HB 2034A PUBLIC HEARING

063	Rob Bovett	Assistant County Counsel, Lincoln County, OR. Submits testimony and testifies in support of HB 2034A that modifies definition of iodine matrix (EXHIBIT G).
154	Chair Minnis	Asks about an increase in burglary if drugs are behind the counter.
156	Bovett	Says it has not been the case in Lincoln County, in fact, it has decreased shoplifting.
217	Vice Chair Burdick	Asks if there would be a limit on the amount of Sudafed one could purchase.
220	Bovett	Explains that there is a national standard of a 9-gram limitation.
243	Chair Minnis	Asks how many meth labs are in Lincoln County.
248	Bovett	Says it is hard to quantify, but says it is increasing very quickly.
261	Chair Minnis	Asks about reoccurring arrests for cooking meth.
264	Bovett	Says there are some who build up enough of a record to spend time in federal prison, but it takes quite a record to get there.
272	Bill Taylor	Committee Counsel. Asks how the product to be behind the counter would be defined.
279	Bovett	Says they are defined narrowly by the active ingredients.
288	Sen. Walker	Says there are always new chemicals being used and worries that more and more drugs will need to be put behind the counter.
308	Bovett	Thinks that we need to start somewhere.
321	Sen. Walker	Asks about the limit one can purchase without breaking the law.
328	Bovett	Explains there are exemptions built in to the current law.

348	Larry Welty	Oregon Narcotics Enforcement Association. Submits testimony and testifies in support of HB 2034A (EXHIBIT H).
431	Marcia Keith	Oregon Veterinary Medical Association. Submits testimony and testifies in support of HB 2034A (EXHIBIT I).
482	Julie Brandis	Oregon Retail Association. Testifies in opposition to HB 2034A. Says retailers are put in a very difficult position by requiring certain drugs be put behind the counter.

TAPE 115, B

051	Sen. Walker	Expresses concern about the enforcement of this legislation.
053	Chair Minnis	Closes the public hearing on HB 2034A and opens a public hearing on HB 2821A.

HB 2821A PUBLIC HEARING

065	Rob Bovett	Assistant County Counsel, Lincoln County, Oregon. Submits testimony and testifies in support of HB 2821A (EXHIBIT J).
093	Marshall Ross	Sr. Deputy, Multnomah County Sheriff's Office. Submits testimony and testifies in support of HB 2821A (EXHIBIT K).
135	Brian Wallace	Civil Deputy, Polk County Sheriff's Office. Submits testimony and testifies in support of HB 2821A (EXHIBIT L).
173	Chair Minnis	Wants to check on a possible conflict of fees.
180	Bovett	Explains that HB 2646 is the bill being referred to and that Dave Heyndrickx of Legislative Counsel worked on both bills.
188	Wallace	Continues to explain sections of HB 2821A.
221	Tim Leader	Civil Deputy Supervisor, Washington County Sheriff's Office. Testifies in support of HB 2821A.
259	Chair Minnis	Asks about Section 1 language that refers to "shall use such force as is necessary" and expresses concern about the "shall."
273	Ross	Explains why the word "shall" should remain in the bill.
282	Chair Minnis	Contends that a court order does not resolve an officer of responsibility to use restraint.
312	Vice Chair Burdick	Says she would be more comfortable with some qualifying language.
328	Bovett	Explains that almost all civil statutes are flushed out in extensive case law and case law develops standards of conduct.
348	Bill Taylor	Committee Counsel. Asks if the language in this bill comes from another statute.
353	Bovett	Says this language is the statute that was inadvertently repealed out of Chapter 29 in the 2001 legislation.
362	Taylor	Asks if the word "reasonable" could be used.
366	Bovett	Says he does not have a problem with including "reasonable."
371	Vice Chair Burdick	Asks about a deputy being able to make the decision to leave the scene.
382	Ross	Describes such an incident.
420	Chair Minnis	Closes the public hearing on HB 2821A and adjourns the meeting at 10:00 a.m.

EXHIBIT SUMMARY

A – SB 894, written testimony submitted by Sen. Ryan Deckert, 1 p

B – SB 895, written testimony submitted by Pamela Erickson, 1 p

C – SB 895, written testimony submitted by Jon Stubenvoll, 2 pp

D – HB 2811A, HB 3339A, written testimony submitted by Kelly Peterson, 1 p

E – HB 2811A, written testimony submitted by Marcia Keith, 1 p

F – HB 3339A, written testimony submitted by Marcia Keith, 1 p
G – HB 2034A, written testimony submitted by Rob Bovett, 18 pp
H – HB 2034A, written testimony submitted by Larry Welty, 3 pp
I – HB 2034A, written testimony submitted by Marcia Keith, 1 p
J – HB 2821, written testimony submitted by Rob Bovett, 1 p
K – HB 2821, written testimony submitted by Marshall Ross, 1 p
L – HB 2821, written testimony submitted by Brian Wallace, 2 pp