

# SENATE COMMITTEE ON JUDICIARY

May 05, 2003  
8:00 a.m.

Hearing Room 343  
Tapes 118-119

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

**MEMBER EXCUSED:** Sen. Ted Ferrioli  
Sen. Charlie Ringo

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

**MEASURE/ISSUES HEARD:** HB 3339A Work Session  
HB 2177A Work Session  
SB 655 Public Hearing  
HB 2064 Public Hearing and Work Session  
HB 2063A 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>
<b>TAPE 118, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:20 a.m. and opens a work session on HB 3339A that creates crime of trading in non-ambulatory livestock.
<b><u>HB 3339A WORK SESSION</u></b>		
006	Vice Chair Burdick	<b>MOTION: Moves HB 3339A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-2</b>
011	Chair Minnis	<b>EXCUSED: 2 - Sen. Ferrioli, Sen. Ringo</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. BURDICK will lead discussion on the floor.</b>
015	Chair Minnis	Closes the work session on HB 3339A and opens a work session on HB 2177A.
<b><u>HB 2177A WORK SESSION</u></b>		
017	Craig Prins	Committee Counsel. Introduces HB 2177A that provides that inmates and others may not bring criminal or civil stalking action against parole and probation officer or officer, employee or agent of Department of Corrections, law enforcement unit or Oregon Youth Authority for official conduct of officer, employee or agent, and the -A8 amendments ( <b>EXHIBIT A</b> ) and -A9 amendments ( <b>EXHIBIT B</b> ).
072	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in

091	Chair Minnis	support of HB 2177A. Discusses the amendments.
094	Skye	Asks about a false statement being made. Explains that a good attorney would move to suppress the statements.
117	Prins	Talks about the potential for perjury.
144	<b>Vice Chair Burdick</b>	<b>MOTION: Moves to ADOPT HB 2177A-A8 amendments dated 4/28/03.</b> <b>VOTE: 4-0-2</b> <b>EXCUSED: 2 - Sen. Ferrioli, Sen. Ringo</b> <b>Hearing no objection, declares the motion CARRIED.</b>
148	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
150	Stephanie Tuttle	Oregon District Attorneys Association. Testifies in opposition to the -A8 amendments to HB 2177A.
179	Chair Minnis	Asks about obtaining an indictment for perjury if the statements were false.
182	Tuttle	Explains that it could be done but is difficult to prove.
194	Vice Chair Burdick	Asks if a court appointed attorney would be available.
197	Tuttle	Replies that she does not know.
200	Prins	Says that stalking is not a criminal proceeding, so a court-appointed attorney would not be available.
232	Vice Chair Burdick	Asks if the Miranda rights would be read.
234	Prins	Says, no.
259	Chair Minnis	Believes that statements should be admissible if a person is represented by counsel.
262	Tuttle	Explains when testimony might be allowed for impeachment.
282	Skye	Explains why statements should not be able to be used.
315	Prins	States that orders are for an indefinite period allowing the courts to use their discretion on the amount of time needed.
335	Vice Chair Burdick	Asks about problems that might arise from having different ground rules.
342	Skye	Explains that just because a person brings in an attorney their statements should not be treated differently.
384	Chair Minnis	Says he is still troubled by the impeachment process and would like to have an amendment taking the impeachment part out of the bill.
400	Chair Minnis	Closes the work session on HB 2177A and opens a public hearing on SB 655.

**SB 655 PUBLIC HEARING**

405	Craig Prins	Committee Counsel. Introduces SB 655 that creates crime of unlawful trafficking in communication or access devices.
-----	-------------	---

443	Ted Hughes	Motion Picture Association of America. Submits testimony and testifies in support of SB 655 ( <b>EXHIBIT C</b> ). Says the proposed amendments would substantially change the existing bill ( <b>EXHIBIT D</b> ).
<b>TAPE 119, A</b>		
030	Vice Chair Burdick	Says she does not have a copy of the amendments and would like to know what they do.
045	Prins	Explains that the amendments expand the application by adding communications services and communications devices to the current bill. Says that the bill is technical in nature.
064	Vice Chair Burdick	Asks if it would include music swapping and DVD copying.
066	Prins	Says, yes, plus it would deal with Internet swapping and data transmission. Says the bill would prohibit the use of unlawful access devices.
112	Hughes	Says the Motion Picture Association drafted this model bill and has introduced it around the country because the age of digital cinema is on the horizon.
136	Vice Chair Burdick	Wonders why copyright law wouldn't apply.
145	Chair Minnis	Says the copyright laws are probably enforceable, but much more complex. Asks if defrauding a cable company is what is being addressed in this bill.
154	Hughes	Says that defrauding is in current law. Explains that the bill is directed toward satellite and digital motion pictures.
212	Jim Craven	American Electronics Association. Submits testimony and testifies in opposition to SB 655 ( <b>EXHIBIT E</b> ).
237	Chair Minnis	Asks what the concern is in this legislation.
239	Craven	Explains the major unintended consequences of this legislation. Says the definition of devices needs to be clarified.
281	Chair Minnis	Contends that it is not the actual device, but the abuse of its use that is the issue.
289	Craven	Agrees. Also, expresses concern about the appropriateness of penalties.
348	Chair Minnis	Believes that this issue might be similar to identity theft.
356	Craven	Says that it is currently a very big issue of national debate.
378	Sen. Walker	Talks about an email she received about firewall software.
389	Craven	Explains that is one of the criticisms of the model bill.
426	Bill Barry	Self-employed Database Consultant, Benton County, Oregon. Submits testimony and testifies in opposition to SB 655 ( <b>EXHIBIT F</b> ).
<b>TAPE 118, B</b>		
050	Chair Minnis	Gives an example of having a silencer on a gun and wonders if there is a parallel.
060	Barry	Believes there is no parallel.
074	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 655. Says the bill is overly broad as written, but has not had a chance to review the proposed amendments.
092	Sen. Walker	Asks if the penalties are too severe.
095	Skye	Says, yes.
130	Julie Brandis	Associated Oregon Industries. Testifies in opposition to SB 655. Says the states that have adopted this legislation have concerns.
171	Nan Heim	Oregon Library Association. Testifies in opposition to SB 655. Is concerned about the responsibilities of a librarian copying

190 Prins information off the Internet.  
 201 Hughes Explains that the federal act excludes librarians.  
 217 Chair Minnis Concludes that the amendments will resolve the concerns of those who are in opposition.  
 Closes the public hearing on SB 655 and opens a public hearing on HB 2064.

**HB 2064 PUBLIC HEARING**

221 Bill Joseph Committee Counsel. Introduces HB 2064 that creates declaration under penalty of perjury as alternative to affidavit under Oregon Rules of Civil Procedure.  
 245 Everett Jack Oregon State Bar. Submits testimony and testifies in support of HB 2064 (**EXHIBIT G**).  
 258 Sen. Walker Asks if this is in compliance with the Federal Rules of Civil Procedure.  
 260 Jack Says, yes.  
 276 Chair Minnis Closes the public hearing on HB 2064 and opens a work session.

**HB 2064 WORK SESSION**

277 Vice Chair Burdick **MOTION: Moves HB 2064 to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.**  
**VOTE: 4-0-2**  
**EXCUSED: 2 - Sen. Ferrioli, Sen. Ringo**  
**Hearing no objection, declares the motion CARRIED.**  
**SEN. WALKER will lead discussion on the floor.**  
 270 Chair Minnis  
 298 Chair Minnis Closes the work session on HB 2064 and opens a public hearing on HB 2063A.

**HB 2063A PUBLIC HEARING**

300 Bill Joseph Committee Counsel. Introduces HB 2063A that enacts 1997 Uniform Principal and Income Act.  
 325 Chris Cline Oregon State Bar. Submits testimony and testifies in support of HB 2063A (**EXHIBIT H**). Explains the reason for the amendments in the House.

**TAPE 119, B**

021 Joseph Asks that a section-by-section analysis be sent to him for review.  
 031 Chair Minnis Closes the public hearing on HB 2063A and adjourns the meeting at 9:45 a.m.

**EXHIBIT SUMMARY**

- A – HB 2177, -A8 amendments submitted by staff, 1 p**
- B – HB 2177, -A9 amendments submitted by staff, 5 pp**
- C – SB 655, written testimony submitted by Ted Hughes, 2 pp**
- D – SB 655, proposed amendments submitted by Ted Hughes, 12 pp**
- E – SB 655, written testimony submitted by Jim Craven, 7 pp**
- F – SB 655, written testimony submitted by Bill Barry, 1 p**
- G – HB 2064, written testimony submitted by Everett Jack, 1 p**
- H – HB 2063A, written testimony submitted by Chris Cline, 2 pp**