

SENATE COMMITTEE ON JUDICIARY

May 06, 2003
8:00 a.m.

Hearing Room 343
Tapes 120-121

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

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

MEASURE/ISSUES HEARD: **SB 27 Public Hearing and Work Session**
 HB 2150A Work Session
 SB 466 Work Session
 SB 52 Work Session
 SB 301 Work Session
 SB 421 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 120, A		
004	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a public hearing on SB 27.
<u>SB 27 PUBLIC HEARING</u>		
008	Vice Chair Burdick	Senate District 18. Submits testimony and testifies in support of SB 27 that provides person with claim for damages for unconscionable tactic (EXHIBIT A).
059	Chair Minnis	Closes the public hearing on SB 27 and opens a work session on HB 2150A.
<u>HB 2150A WORK SESSION</u>		
061	Bill Joseph	Committee Counsel. Introduces HB 2150A that specifies that copy of small estate affidavit must be mailed or delivered to Estate Administration Unit of Department of Human Services.
086	Vice Chair Burdick	MOTION: Moves HB 2150A to the floor with a DO PASS recommendation. VOTE: 5-0-1 EXCUSED: 1 - Sen. Ferrioli
091	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. C. STARR will lead discussion on the floor.
093	Chair Minnis	Closes the work session on HB 2150A and opens a work session on SB 466.

SB 466 WORK SESSION

095 Chair Minnis Introduces SB 466 that creates crimes of unlawful use of theft detection shielding device and unlawful use of theft detection device deactivator or remover and the -1 amendments **(EXHIBIT B)**.

103 Vice Chair Burdick **MOTION: Moves to ADOPT SB 466-1 amendments dated 3/24/03.**
VOTE: 5-0-1
EXCUSED: 1 - Sen. Ferrioli
Hearing no objection, declares the motion CARRIED.

109 Chair Minnis
117 Vice Chair Burdick **MOTION: Moves SB 466 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 5-0-1
EXCUSED: 1 - Sen. Ferrioli
Hearing no objection, declares the motion CARRIED.
SEN. WALKER will lead discussion on the floor.

121 Chair Minnis Closes the work session on SB 466 and opens a work session on SB 52.

SB 52 WORK SESSION

116 Craig Prins Committee Counsel. Introduces SB 52 that creates crime of aggravated identity theft and the -3 amendments **(EXHIBIT C)**.

145 Vice Chair Burdick **MOTION: Moves to ADOPT SB 52-3 amendments dated 5/5/03.**
VOTE: 5-0-1
EXCUSED: 1 - Sen. Ferrioli
Hearing no objection, declares the motion CARRIED.

148 Chair Minnis
152 Vice Chair Burdick **MOTION: Moves SB 52 to the floor with a DO PASS AS AMENDED recommendation.**

155 Sen. Walker Asks about another bill on identity theft.
158 Prins Explains the difference between the two bills.

208 **VOTE: 5-0-1**
EXCUSED: 1 - Sen. Ferrioli
Hearing no objection, declares the motion CARRIED.
SEN. MINNIS will lead discussion on the floor.

209 Chair Minnis Closes the work session on SB 52 and re-opens the public hearing on SB 27 that provides person with claim for damages for unconscionable tactic.

210 Chair Minnis

SB 27 PUBLIC HEARING

214 Vice Chair Burdick Introduces the -2 amendments to SB 27 **(EXHIBIT D)**.
229 Sen. Ringo Believes that the amendments are too broad and would prefer the exemption on page 2, line 10 be removed.

260 Cheryl Pellegrini Department of Justice. Testifies in support of SB 27. Clarifies what this bill would achieve.

351 Vice Chair Burdick Clarifies the concern about telemarketers and what services they would be able to provide.

367 Pellegrini Discusses page 3 of the -2 amendments.
384 Sen. Ringo Asks for clarification of page 3, line 3, subsection 4 that talks about class action suits.

412 Pellegrini Says it precludes private action.
441 Vice Chair Burdick Explains that was the intent.
456 Sen. Ringo Says he does not accept that explanation.

TAPE 121, A
003 Vice Chair Burdick She understands that most actions taken for violations are run through the Attorney General's office.

010	Sen. Ringo	Believes it is very important to have a civil remedy because the Attorney General's office is too busy to get involved in some of these issues.
017	Chair Minnis	Talks about unlawful trade practices and asks if it isn't exclusively enforced by the Attorney General's office.
018	Pellegrini	Explains that it does have a private cause of action.
036	Sen. Ringo	Contends that page 3, line 30, subsection b of the -2 amendments states that a person cannot bring a private right of action.
037	Pellegrini	Provides her understanding of this section of the -2 amendments.
054	Sen. Ringo	Asks how the Attorney General's office would handle a call.
061	Pellegrini	Says they would not take action unless it was a wide spread problem.
075	Sen. Ringo	Asks if there is staff available to handle the follow-up to these calls.
078	Pellegrini	Says she has one full-time employee devoted to these calls.
082	Sen. Walker	Asks about the operating budget.
085	Pellegrini	Says the decision must be made by the Attorney General.
102	Sen. Walker	Asks about junk faxes.
107	Pellegrini	Says a person must notify the company in writing before action can be brought.
121	Sen. Walker	Expresses concern about the exemption of a private right of action.
129	Pellegrini	Says there exists in Section 1, subsection 6, a private right of action for fax machines.
169	Chair Minnis	Closes the public hearing on SB 27 and opens a work session on SB 301.

SB 301 WORK SESSION

173	Craig Prins	Committee Counsel. Introduces SB 301 and the -1 amendments (EXHIBIT E) and the -2 amendments (EXHIBIT F). Says there will be a fiscal.
214	Sen. Walker	Expresses concern about the change that the amendments make to page 1, line 5.
222	Prins	Clarifies the meaning of the change.
264	Susan Russell	Oregon Criminal Defense Lawyers Association. Testifies in support of SB 301 and both amendments.
303	Doug Harkleroad	District Attorney, Lane County, Oregon. Says he is fine with the -1 amendments and will let the District Attorneys talk about the -2 amendments.
311	Kamela Shugar	Oregon District Attorneys Association. Testifies in opposition to the -2 amendments. Believes these amendments create a second crime of coercion.
355	Vice Chair Burdick	Asks for clarification of the coercion law.
365	Shugar	Explains the law.
367	Russell	Believes the coercion statute involves an additional element.
384	Sen. Ringo	Asks about a prank being covered under this statute.
390	Shugar	Says that it would possibly be considered hazing.
442	Sen. Ringo	Says he is not in favor of this bill. Says it is not in our interest to create additional crimes.
470	Vice Chair Burdick	Says she is luke-warm on this issue.

TAPE 120, B

025	Chair Minnis	Explains his concern about the ability to get a restraining order.
050	Sen. Walker	Says she supports the -1 amendments.
076	Vice Chair Burdick	MOTION: Moves to ADOPT SB 301-1 amendments dated 3/21/03.

		VOTE: 6-0
077	Chair Minnis	Hearing no objection, declares the motion CARRIED.
089	Vice Chair Burdick	MOTION: Moves SB 301 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-1
		AYE: 5 - Burdick, Ferrioli, Starr C., Walker, Minnis
		NAY: 1 - Ringo
094	Chair Minnis	The motion CARRIES. SEN. WALKER will lead discussion on the floor.
095	Chair Minnis	Closes the work session on SB 301 and opens a work session on SB 421.
<u>SB 421 WORK SESSION</u>		
098	Craig Prins	Committee Counsel. Introduces SB 421 that directs Oregon Criminal Justice Commission to classify manslaughter in second degree and criminally negligent homicide as crime category 9, and the -1 amendments (EXHIBIT G) and -2 amendments (EXHIBIT H). Says there is a fiscal impact on this bill.
153	Sen. Ringo	Asks about sentencing guidelines.
155	Prins	Explains the guidelines.
200	Vice Chair Burdick	MOTION: Moves to ADOPT SB 421-1 amendments dated 4/24/03.
		VOTE: 6-0
207	Chair Minnis	Hearing no objection, declares the motion CARRIED.
211	Vice Chair Burdick	MOTION: Moves to ADOPT SB 421-2 amendments dated 5/5/03.
		VOTE: 6-0
215	Chair Minnis	Hearing no objection, declares the motion CARRIED.
216	Chair Minnis	Explains that the fiscal on this legislation is only \$11,616.
223	Vice Chair Burdick	MOTION: Moves SB 421 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
226	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. FERRIOLI will lead discussion on the floor.
233	Chair Minnis	Closes the work session on SB 421 and re-opens the public hearing on SB 27.
<u>SB 27 PUBLIC HEARING</u>		
241	Julie Brandis	Associated Oregon Industries. Testifies in opposition to SB 27.
305	Chair Minnis	Asks if a person should have a choice not to receive telemarketing calls.
311	Brandis	Explains that in the instance of a business or organization, those calls should be able to continue.
332	Sen. Ringo	Believes it would not be too hard to craft some language regarding prior relationships.
338	Brandis	Thinks that is what Sen. Burdick is trying to do.
353	Vice Chair Burdick	Asks why people would not be required to pick up every phone call if it is believed that telemarketing is in the public's best interest.
365	Brandis	Talks about caller ID and believes it is not used that much in business. Says a business cannot afford not to pick up the phone.
418	Chair Minnis	Closes the public hearing on SB 27 and opens a work session.
<u>SB 27 WORK SESSION</u>		
421	Vice Chair Burdick	MOTION: Moves to ADOPT SB 27-2 amendments dated

4/21/03.
VOTE: 6-0
424 Chair Minnis Hearing no objection, declares the motion CARRIED.
425 Vice Chair Burdick MOTION: Moves SB 27 to the floor with a DO PASS AS
AMENDED recommendation.
VOTE: 5-1
AYE: 5 - Burdick, Ferrioli, Ringo, Starr C., Walker
NAY: 1 - Minnis
430 Chair Minnis The motion CARRIES.
SEN. BURDICK will lead discussion on the floor.
438 Chair Minnis Closes the work session on SB 27 and adjourns the meeting at
9:40 a.m.

EXHIBIT SUMMARY

- A – SB 27, written testimony submitted by Sen. Burdick, 1 p
- B – SB 466, -1 amendments submitted staff, 8 pp
- C – SB 52, -3 amendments submitted by staff, 1 p
- D – SB 27, -2 amendments submitted by staff, 5 pp
- E – SB 301, -1 amendments submitted by staff, 1 p
- F – SB 301, -2 amendments submitted by staff, 1 p
- G – SB 421, -1 amendments submitted by staff, 1 p
- H – SB 421, -2 amendments submitted by staff, 1 p