

SENATE COMMITTEE ON JUDICIARY

June 12, 2003
8:00 AM

Hearing Room 343
Tapes 162 – 163

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
 Bill Taylor, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2049A Work Session**
 SB 620 Work Session
 HB 2235A Public Hearing and Work Session
 HB 2770A Public Hearing and Work Session
 HB 3330A Public Hearing and Work Session
 HB 2696A Public Hearing and Work Session
 SB 297 Work Session
 HB 3329B 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>
TAPE 162, A		
004	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a work session on HB 2049A.
<u>HB 2049A WORK SESSION</u>		
008	Bill Joseph	Committee Counsel. Introduces HB 2049A that requires that motion to amend pleading to assert claim for punitive damages be filed and served not less than 60 days before date set for trial, and the –A5 amendments (EXHIBIT A).
023	Sen. Ringo	Thanks the Committee Counsel for his work on these amendments. Clarifies the function of the –A5 amendments.
033	Joseph	Concurs with Sen. Ringo's clarification, and further discusses.
040	Sen. Ringo	MOTION: Moves to ADOPT HB 2049A-A5 amendments dated 06/10/03.
041	Sen. Ferrioli	Asks if Rep. Ackerman was aware of the change to the bill.
045	Joseph	Indicates that he did not consult Rep. Ackerman on the bill, and comments on the discussions which have occurred after the bill left the House Judiciary Committee.
050	Committee	Discusses the procedure for concurring with the House on the –A5 amendments.

VOTE: 5-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

065 Chair Minnis
070 Sen. Ringo

MOTION: Moves HB 2049A to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 5-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

075 Chair Minnis

SEN. RINGO will lead discussion on the floor.

077 Chair Minnis

Closes the work session on HB 2049A and opens a work session on SB 620.

SB 620 WORK SESSION

080 Bill Joseph

Committee Counsel. Introduces SB 620 that requires agency employing police or corrections officer to reimburse officer for attorney fees incurred as result of criminal prosecutions and investigations against officer under specified circumstances.

Introduces the -1 amendments (**EXHIBIT B**).

Comments on the issue addressed by the bill.

085 Sen. Walker

095 Sen. Walker

MOTION: Moves to ADOPT SB 620-1 amendments dated 06/04/03.

VOTE: 6-0

Hearing no objection, declares the motion CARRIED.

100 Chair Minnis

105 Sen. Walker

MOTION: Moves SB 620 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 6-0

Hearing no objection, declares the motion CARRIED.

110 Chair Minnis

SEN. WALKER will lead discussion on the floor.

115 Chair Minnis

Closes the work session on SB 620, and opens a public hearing on HB 2235A.

HB 2235A PUBLIC HEARING

120 Chair Minnis

Clarifies that the bill is a technical fix to a statute which passed last session (2001).

125 Scott Tighe

Department of Public Safety Standards and Training (DPSST).

Acknowledges, submits testimony, and testifies in support of HB 2235A (**EXHIBIT C**).

190 Sen. Ringo

Asks if security companies have to be licensed and certified by the state.

195 Tighe

Indicates security companies are required to be licensed.

197 Sen. Ringo

Further clarifies the licensing requirements.

200 Tighe

Further outlines the requirements.

205 Sen. Ringo

Asks about the training requirements.

207 Tighe

Discusses the training requirements.

210 Chair Minnis

Closes the public hearing on HB 2235A and opens a work session.

HB 2235A WORK SESSION

215 Vice Chair Burdick

MOTION: Moves HB 2235A to the floor with a DO PASS recommendation.

VOTE: 6-0

Hearing no objection, declares the motion CARRIED.

217 Chair Minnis

SEN. C STARR will lead discussion on the floor.

220 Chair Minnis

Closes the work session on HB 2235A, and opens a public hearing on HB 2770A.

HB 2770A PUBLIC HEARING

225	Craig Prins	Committee Counsel. Introduces HB 2770A that creates crime of strangulation, and the –A13 amendments (EXHIBIT D).
265	Sen. Walker	Clarifies an issue in the amendments.
270	Prins	Explains the issue, and continues with the description of the bill.
325	Committee	Discusses the breadth of the bill.
313	Rep. Floyd Prozanski	House District 8. Testifies in support of HB 2770A.
326	Sen. Ringo	Asks why strangulation is being created as a crime.
330	Rep. Prozanski	Comments on the risk of strangulation to women in particular.
354	Sen. Ringo	Asks if strangulation isn't already an assault.
360	Rep. Prozanski	Provides that strangulation is an assault only if it causes an injury.
395	Sen. Ringo	Further questions the injuries caused by strangulation.
370	Jean Kunkle	Marion County District Attorney. Explains what is considered an injury in strangulation.
395	Sen. Ringo	Further questions the need to define “strangulation” specifically as a crime.
397	Rep. Prozanski	Further comments on why the law is needed.
400	Chair Minnis	Comments on the use of reasonable doubt in trials, in relation to the bill. Closes the public hearing on HB 2770A and opens a work session.

HB 2770A WORK SESSION

410	Vice Chair Burdick	MOTION: Moves to ADOPT HB 2770A-A13 amendments dated 06/11/03.
		VOTE: 6-0
415	Chair Minnis	Hearing no objection, declares the motion CARRIED.
420	Vice Chair Burdick	MOTION: Moves HB 2770A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
425	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. MINNIS will lead discussion on the floor.
435	Chair Minnis	Closes the work session on HB 2770A, and opens a public hearing on HB 3330A.

TAPE 163, A

HB 3330A PUBLIC HEARING

035	Bill Joseph	Committee Counsel. Introduces HB 3330A that authorizes Governor to proclaim that natural disaster or act of war, terrorism or sabotage has caused death of unknown persons on specific date at specific place, and the –A4 amendments (EXHIBIT E).
045	Committee	Discusses the bill.
045	Chair Minnis	Closes the public hearing on HB 3330A and opens a work session.

HB 3330A WORK SESSION

050	Vice Chair Burdick	MOTION: Moves to ADOPT HB 3330A-A4 amendments dated 05/16/03.
		VOTE: 6-0
055	Chair Minnis	Hearing no objection, declares the motion CARRIED.
057	Vice Chair Burdick	MOTION: Moves HB 3330A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
060	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. FERIOLI will lead discussion on the floor.
065	Chair Minnis	Closes the work session on HB 3330A and opens a public

hearing on HB 2696A.

HB 2696A PUBLIC HEARING

070	Bill Joseph	Committee Counsel. Introduces HB 2696A that provides right to hearing when Department of Human Services proposes to refuse, suspend, revoke or terminate support service payment used to support participation in job opportunity and basic skills program, and the -A3 amendments (EXHIBIT F).
080	Martin Taylor	Oregon Law Center. Testifies in support of HB 2696A.
105	Chair Minnis	Closes the public hearing on HB 2696A and opens a work session.

HB 2696A WORK SESSION

107	Vice Chair Burdick	MOTION: Moves to ADOPT HB 2696A-A3 amendments dated 06/03/03.
112	Sen. Walker	Points out this bill would fix the Huckstor case.
115	Martin Taylor	Oregon Law Center. Comments on the bills relation to the Huckstor case.
		VOTE: 6-0
125	Chair Minnis	Hearing no objection, declares the motion CARRIED.
127	Vice Chair Burdick	MOTION: Moves HB 2696A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
130	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
135	Chair Minnis	Closes the work session on HB 2696A, and opens a work session on HB 297.

SB 297 WORK SESSION

137	Bill Joseph	Committee Counsel. Introduces SB 297 that creates presumption that certain clauses in consumer contract on standardized printed form are void, and the -4 amendments (EXHIBIT G).
185	Sen. Ringo	Asks whether there are sanctions imposed for failure to disclose an insurance policy.
188	Joseph	Points out that this issue is addressed on page 7, line 20. Further comments on the sanctions.
206	Sen. Ringo	Asks if there are sanctions if the insurer fails to disclose.
211	Joseph	Says it would be at least contempt of court.
232	Vice Chair Burdick	Clarifies that the -4 amendments are a result of the various interested parties getting together to agree.
245	Chair Minnis	Indicates the -4 amendments are such a compromise.
249	Vice Chair Burdick	Indicates her support of the -4 amendments.
260	Vice Chair Burdick	MOTION: Moves to ADOPT SB 297-4 amendments dated 06/12/03.
265	Sen. Walker	Comments on the chain of command regarding courts, in the bill.
270	Sen. Ringo	Expresses his opinion regarding how the bill has changed.
275	Sen. Walker	Comments on the wording in the bill.
		VOTE: 6-0
285	Chair Minnis	Hearing no objection, declares the motion CARRIED.
290	Vice Chair Burdick	Thanks Legislative Counsel for their work on the bill.
295	Vice Chair Burdick	MOTION: Moves SB 297 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
305	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. MINNIS will lead discussion on the floor.
310	Chair Minnis	Closes the work session on SB 297, and opens a public hearing

HB 3329B PUBLIC HEARING

315	Bill Joseph	on HB 3329B.
347	Hardy Myers	Committee Counsel. Introduces HB 3329B that 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 introduces the –B6 amendments (EXHIBIT H), -B7 amendments (EXHIBIT I), -B8 amendments (EXHIBIT J), and –B9 amendments (EXHIBIT K).
TAPE 162, B		Oregon Attorney General. Testifies in support of HB 3329B.
068	Sen. Walker	Questions whether, due to the federal registry, there is a need for the state registry. Asks about the deadline for getting a name on the list.
076	Myers	Outlines the deadline.
086	Cheryl Pellegrini	Assistant Attorney General. Submits written testimony (EXHIBIT L) and further comments on the deadline in question. Points out that until the bill passes, there is no link between the federal and state lists.
103	Sen. Walker	Asks why state law is pre-empted by the federal list.
111	Myers	Clarifies the relationship between the federal and state lists.
121	Sen. Walker	Asks if we are losing income from compiling the state list.
129	Myers	Indicates the income would be lost, but money will be saved by ending the Oregon program.
140	Sen. Walker	Points out she has serious concerns about the federal government’s involvement.
146	Myers	Expresses his concerns with the involvement of the federal government, but responds that the creation of a national list is a positive step forward.
157	Vice Chair Burdick	Questions where the income from the Oregon no-call list goes.
164	Pellegrini	Explains that the funds collected are used to pay for the registration process, not enforcement.
187	Vice Chair Burdick	Asks for clarification of how enforcement is funded.
192	Pellegrini	Explains the enforcement actions and indicates the offenders pay for the enforcement.
212	Vice Chair Burdick	Asks if enforcement would change under this legislation.
214	Pellegrini	Indicates there would be no change in enforcement.
220	Vice Chair Burdick	Clarifies whether the exemptions on the federal list or the exemptions on the state list would be paramount.
224	Pellegrini	Explains that the state exemptions would take precedence in the state.
238	Vice Chair Burdick	Clarifies that the only change which the consumer would experience would no longer need to pay the fee currently associated with the state list.
240	Pellegrini	Acknowledges.
246	Sen. Ringo	Questions the federal preemption if the state does not pass the bill.
253	Myers	Refers to his conversations with the Federal Trade Commission (FTC) regarding the issue.
256	Pellegrini	Comments on the conversations with the FTC regarding preemption.
324	Sen. Ringo	Points out the bill would stave off preemption.
325	Pellegrini	Addresses the –B7 amendments indicating they would nullify the intent of the bill therefore ensuring noncompliance with federal

list. Asks that these amendments not be considered.

358 Vice Chair Burdick Asks about the –B8 amendments that cover businesses lines being on the federal list.

372 Pellegrini Explains that businesses would be able to be put on the federal list.

388 Sen. Walker Asks how a business would be able to register with the federal list.

406 Pellegrini Clarifies that there would still be an Oregon list, but that it would be administered by the federal government.

420 Sen. Walker Further questions enrollment on the federal list.

430 Pellegrini Outlines the way in which businesses would enroll on the list.

422 Sen. Walker Asks about the difficulty in obtaining federal lists and compliance with individual states’ no-call laws.

435 Pellegrini Acknowledges.

439 Myers Explains that the federal registry is a compromise among the states to create one list, with the provision that the states are able to keep their individual exemptions.

TAPE 163, B

027 Connie Gallagher Oregon Department of Justice. Submits testimony and testifies in support of sections I and 2 of HB 3329B that deals with crime victims assistance (**EXHIBIT M**).

077 Brant Wolf Oregon Telecommunication Association. Testifies in opposition to HB 3329B. Addresses the –B7 amendments.

120 Sen. Ringo Points out the Attorney General’s testimony that the –B7 amendments would make Oregon noncompliant. Asks Mr. Wolf to address this perception.

127 Wolf Indicates that this is the first he has heard of these concerns.

132 Sen. Ringo Asks about the –B7 amendments would mean noncompliance and points out he could not support them in this case.

141 Wolf Further offers his interpretation of the –B7 amendments.

149 Sen. Walker Points out the discretionary language in the –B7 amendments. Asks why someone would continue to pay if they could receive the service for free.

163 Wolf Explains that those individuals who wanted greater protection would sign with the more stringent state list.

166 Sen. Walker Comments on the effectiveness of the program, but the concerns of having two lists.

174 Wolf Explains that there would be a lack of coverage with enrolling with the federal list, and not with the state list.

180 Sen. Walker Asks that the Attorney General’s office address these concerns.

197 Pellegrini Offers her understanding of what will happen on July 1 when the FTC registry begins.

220 Sen. Walker Asks whether the language could be changed in the –B7 amendments to bring them into compliance.

230 Wolf Comments on the concerns which have been raised with the –B7 amendments.

250 Pellegrini Points out the issue is not about sharing lists, but about designation. Restates the efforts of the FTC to bring the various state lists into compliance.

280 Sen. Ringo Believes the changes need to be adopted.

298 Chair Minnis Expresses frustration with federal mandates, and indicates his lack of interest in this legislation. Asks whether there is any ability to change the bill to address the concerns expressed by Mr. Wolf.

307	Pellegrini	Refers to the contract the state has with the list administrator, and indicates this contract would still be valid upon passage of the bill.
318	Chair Minnis	Asks that some compromises to the bill need to be made. Closes the public hearing on HB 3329B, and adjourns the meeting at 10:05 a.m.

EXHIBIT SUMMARY

- A – HB 2049A, -A5 amendments, staff, 2 pp.**
- B – SB 620, -1 amendments, staff, 12 pp.**
- C – HB 2235A, written testimony, Scott Tighe, 2 pp.**
- D – HB 2770A, -A13 amendments, staff, 15 pp.**
- E – HB 3330A, -A4 amendments, staff, 1 p.**
- F – HB 2696A, -A3 amendments, staff, 1 p.**
- G – SB 297, -4 amendments, staff, 8 pp.**
- H – HB 3329B, -B6 amendments, staff, 1 p.**
- I – HB 3329B, -B7 amendments, staff, 2 pp.**
- J – HB 3329B, -B8 amendments, staff, 5 pp.**
- K – HB 3329B, -B9 amendments, staff, 3 pp.**
- L – HB 3329B, written testimony, Cheryl Pellegrini, 4 pp.**
- M – HB 3329B, written testimony, Connie Gallagher, 1 p.**