

SENATE COMMITTEE ON JUDICIARY

June 23, 2003
8:00 a.m.

Hearing Room 343
Tapes 173-174

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

STAFF EXCUSED: **Sen. Ted Ferrioli**

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

MEASURE/ISSUES HEARD: **HB 2110A Work Session**
 HB 3338A Work Session
 HB 3344A Work Session
 HB 2646A Work Session
 HB 2094A 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.

TAPE/#	Speaker	Comments
TAPE 173, A		
004	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a work session on HB 2110A.
<u>HB 2110A WORK SESSION</u>		
008	Bill Taylor	Committee Counsel. Introduces HB 2110A that modifies application of definitions, and the -A15 and -A16 amendments (EXHIBITS A-B) .
020	Chair Minnis	Reviews the issue of veterans' benefits.
034	Sen. Ringo	Asks what factors the courts will use to address the "may be reduced" issue.
037	Taylor	Explains that it would not only be the court, but the administrator that would look at the totality of the circumstances.
043	Sen. Ringo	Asks about the financial stability of a person.
050	Taylor	Explains that with sufficient assets, there would not be a reduction.
056	Sen. Ringo	MOTION: Moves to ADOPT HB 2110A-A15 amendments dated 6/20/03. VOTE: 5-0-1 EXCUSED: 1 - Sen. Ferrioli
065	Chair Minnis	Hearing no objection, declares the motion CARRIED.
069	Sen. Ringo	MOTION: Moves HB 2110A to the floor with a DO PASS AS

AMENDED recommendation.

VOTE: 5-0-1

EXCUSED: 1 - Sen. Ferrioli

**070 Chair Minnis Hearing no objection, declares the motion CARRIED.
SEN. RINGO will lead discussion on the floor.**

**078 Chair Minnis Closes the work session on HB 2110A and opens a work session
on HB 3338A.**

HB 3338A WORK SESSION

**079 Bill Joseph Committee Counsel. Introduces HB 3338A that modifies
provisions relating to desertion by parent in adoption
proceedings, and the--A4 conflict amendments (EXHIBIT C).**

**086 Vice Chair Burdick MOTION: Moves to SUSPEND the rules for the purpose of
Reconsidering the vote by which HB 3338A was
sent to the floor of the Senate.**

VOTE: 5-0-1

EXCUSED: 1 - Sen. Ferrioli

090 Chair Minnis Hearing no objection, declares the motion CARRIED.

**091 Vice Chair Burdick MOTION: Moves to ADOPT HB 3338A-A4 amendments
dated 6/20/03 to RESOLVE CONFLICTS.**

VOTE: 5-0-1

EXCUSED: 1 - Sen. Ferrioli

097 Chair Minnis Hearing no objection, declares the motion CARRIED.

**099 Vice Chair Burdick MOTION: Moves HB 3338A to the floor with a DO PASS AS
AMENDED recommendation.**

VOTE: 5-0-1

EXCUSED: 1 - Sen. Ferrioli

**102 Chair Minnis Hearing no objection, declares the motion CARRIED.
SEN. STARR will lead discussion on the floor.**

**105 Chair Minnis Closes the work session on HB 3338A and opens a work session
on HB 3344A.**

HB 3344A WORK SESSION

**107 Bill Joseph Committee Counsel. Introduces HB 3344A that changes number
of years that intangible personal property must be held in
fiduciary capacity before being presumed abandoned from five to
two.**

**136 Sen. Ringo States the concern that he had expressed at the previous
committee hearing has been resolved.**

**156 Vice Chair Burdick MOTION: Moves HB 3344A to the floor with a DO PASS
recommendation.**

VOTE: 5-0-1

EXCUSED: 1 - Sen. Ferrioli

159 Chair Minnis Hearing no objection, declares the motion CARRIED.

SEN. WALKER will lead discussion on the floor.

164 Chair Minnis Closes the work session on HB 3344A and opens a work session on HB 2646A.

HB 2646A WORK SESSION

170 Bill Gary Harrang Long Gary Rudnick Law Firm. Testifies in support of HB 2646A that revises laws relating to judgment, and the –A7 amendments (**EXHIBIT D**).

284 Sen. Walker Asks if he knew that the case was on appeal in the Supreme Court.

287 Gary Explains the steps taken when a case is appealed to the Supreme Court.

408 Sen. Ringo Asks about the benefit of a new court ruling after the fact, and wonders why special dispensation should be made.

428 Gary Says the court generally does not go back to cases that have already been tried.

461 Sen. Ringo Questions the desire to have the benefit of the old rule and not be impacted by the new decision.

467 Gary Explains that the amendment asks that the new rule apply only prospectively.

TAPE 174, A

032 Chair Minnis Asks why we should do something contrary to a decision made by the Supreme Court.

039 Gary Explains that he is asking only that the old rule apply to those cases that were tried before the new rule was announced.

097 Vice Chair Burdick Asks for an example of when the supreme court has not applied a new ruling.

108 Gary Provides an example case.

117 Vice Chair Burdick Asks what it is about the *Schoop* case that would apply to the cases he is defending.

123 Gary Explains why the *Schoop* case should not be applied to his cases.

141 Sen. Ringo Says he thinks this amendment is interfering with the decision-making process of the Supreme Court.

146 Gary Disagrees. Says it is the interpretation of the Supreme Court's decision that is at issue.

155 Sen. Ringo Talks about the dynamics of the *Schoop* case.

168 Gary Says ultimately, fairness is the issue.

204 Vice Chair Burdick Asks if cases should be retried under the new rule.

207 Gary Explains that they should be retried, but only if the Court of Appeals ultimately concludes that there was an error in submitting something to the jury.

218 Chair Minnis Says he does not support the –A7 amendments.

238 Wendy Johnson Oregon Law Commission. Testifies as neutral on the –A7 amendments.

256 Vice Chair Burdick Expresses her desire that this bill be moved along.

305 Sen. Ringo Says he has a hard time with the fairness issue.

334 Sen. Walker Agrees with Sen. Ringo and objects to the –A7 amendments.

397 Bill Joseph Committee Counsel. Discusses the –A6 amendments that are a combination of technical amendments from Legislative Counsel and the Oregon Law Commission.

402 Sen. Ringo Discusses his concerns with the –A6 amendments, but says he will not oppose them.

438 Vice Chair Burdick Asks for clarification of the \$4 fee.

445 Sen. Ringo Explains how and when the fee is applied.

TAPE 173, B

- 020** Vice Chair Burdick **MOTION: Moves to ADOPT HB 2646A-A6 amendments dated 6/17/03.**
VOTE: 5-0-1
EXCUSED: 1 - Sen. Ferrioli
- 021** Chair Minnis **Hearing no objection, declares the motion CARRIED.**
029 Vice Chair Burdick **MOTION: Moves HB 2646A 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. MINNIS will lead discussion on the floor.
- 035 Chair Minnis Closes the work session on HB 2646A and calls for a 5 minute recess at 9:30 a.m.
- 037 Chair Minnis Reconvenes the meeting at 9:41 a.m. and opens a work session on HB 2094A.

HB 2094A WORK SESSION

- 042 Craig Prins Committee Counsel. Introduces HB 2094A that requires tobacco product manufacturers to report certain information to Attorney General. Reviews the section-by section analysis provided by Pete Shepherd (**EXHIBIT F**). Reviews the –A10 amendments (**EXHIBIT G**), and the –A9 amendments (**EXHIBIT H**).
- 234 Vice Chair Burdick Asks for clarification of where the task force amendment is being applied.
- 236 Prins Explains that it will apply to HB 2368. Discusses the –A5 amendments (**EXHIBIT I**).
- 261 Chair Minnis Says he would like to adopt the amendments and then get a hand-engrossed version of the bill for review and final action.
- 290** Vice Chair Burdick **MOTION: Moves to ADOPT HB 2094A-A9 amendments dated 6/11/03.**
- 290** Vice Chair Burdick **MOTION: Moves to ADOPT HB 2094A-A10 amendments dated 6/12/03.**
- 303 Sen. Ringo Asks from where the \$700,000 would be coming.
- 311 Pete Shepherd Deputy Attorney General. Explains that the funds come from the General Fund and have been accounted for in the budget.
- 341 Sen. Walker Asks about the task force to look at the Master Settlement Agreement (MSA).
- 352 Shepherd Replies that the issue of the task force is addressed in amendments to HB 2368B.
- 371** **VOTE: 5-0-1**
EXCUSED: 1 - Sen. Ferrioli
- 372** Chair Minnis **Hearing no objection, declares the motion CARRIED.**
373 Vice Chair Burdick **MOTION: Moves to ADOPT HB 2094A-A5 amendments dated 5/23/03.**
- 388 Sen. Walker Asks how the “loophole” addressed by the –A5 amendments escaped the MSA task force.
- 406 Shepherd Explains how this issue was missed.
- 420 Sen. Walker Asks about exemptions that applied to some of the small companies.
- 460 Shepherd Says every manufacturer who participates in the MSA must pay.
- 481 Sen. Walker Asks if this is not adopted now, if it will be back next session.
- 484 Shepherd Explains that it will be back and why.
- TAPE 174, B**
- 032 Sen. Walker Asks about another state that passed a similar version of the –A5

		amendments.
038	Shepherd	Says there is one state that did pass a version that is conditioned on other states passing a similar piece of legislation.
066	Sen. Walker	Asks about the allocable share cap.
072	Shepherd	Replies that he would defend and support the share cap.
080	Sen. Walker	Asks if the –A5 amendments are essential to the bill.
084	Shepherd	Says not if it is going to endanger the passage of the bill.
098	Vice Chair Burdick	Asks how much more money would come in to the escrow account with the allocable share cap.
102	Shepherd	Says that the attorney general’s office has not made such a calculation.
107	Sen. Walker	Discusses this legislation and her concerns with it.
110	Chair Minnis	Says it is our public duty to see that revenues derived from the MSA are maximized to the fullest extent possible.
134	Sen. Ringo	Says he has no problem with the allocable cap.
154		VOTE: 4-1-1 AYE: 4 - Burdick, Ringo, Starr C., Minnis NAY: 1 - Walker EXCUSED: 1 - Ferrioli
155	Chair Minnis	The motion CARRIES.
159	Chair Minnis	Closes the work session on HB 2094A and adjourns the meeting at 10:05 a.m.

EXHIBIT SUMMARY

- A – HB 2110A, -A15 amendments submitted by staff, 40 pp**
- B – HB 2110A, -A16 amendments submitted by staff, 25 pp**
- C – HB 3338A, -A4 amendments submitted by staff, 7 pp**
- D – HB 2646A, -A7 amendments submitted by staff, 1 p**
- E – HB 2646A, -A6 amendments submitted by staff, 72 pp**
- F – HB 2094A, printed material from Peter Shepherd, submitted by staff, 7 pp**
- G – HB 2094A, -A10 amendments submitted by staff, 1 p**
- H – HB 2094A, -A9 amendments submitted by staff, 2 pp**
- I – HB 2094A, -A5 amendments submitted by staff, 6 pp**