

SENATE REVENUE COMMITTEE
April 9, 2003 1:00 PM STATE CAPITOL BUILDING

Members Present: Senator Ryan Deckert, Chair
Senator Ted Ferrioli, Vice Chair
Senator Tony Corcoran
Senator Lenn Hannon
Senator Charlie Ringo
Senator Bruce Starr

Witnesses Present: Rob Douglas, Diageo
Joe Gilliam, Oregon Grocery Industry Association
Paul Romain, Oregon Beer and Wine Distributors Association
Pamela Erickson, Oregon Coalition to Reduce Underage Drinking
Kathy Stromvig, MADD
Dave Hendricks, Legislative Counsel
John Stubin, Oregon Liquor Control Commission
Mark Nelson, Anheuser Busch Co.
Gregory Altschuh, Flavored Malt Beverage Coalition
Jim Parker, Oregon Brewers Guild
Bob Doppelt, Lane County
Chuck Sheketoff, Oregon Center for Public Policy
Alan Apodaca, J.C. Penney
Joe Schweinhart, Associated Oregon Industry
Lee Beyer, Oregon Public Utilities Commission
Louis Pitt, Confederated Tribes Warm Springs
Michael Mason, Confederated Tribes Warm Springs
Roger Martin, Confederated Tribes Umatillos

Staff Present: Paul Warner, Legislative Revenue Office
Lizbeth Martin-Mahar, Legislative Revenue Office
Richard Yates, Legislative Revenue Office
Steve Meyer, Legislative Revenue Office
Tara Lantz, Committee Assistant

TAPE 86, SIDE A

004 Chair Deckert Calls meeting to order at 1:07pm.

OPENS PUBLIC HEARING ON SB 871

026	Rob Douglas	Discusses products of Diageo. Testifies in support of SB 871 because the OLCC has determined that flavored malt beverages don't fit under the definition of malt beverages and has issued a letter to all distributors informing them that these beverages will no longer be sold in grocery stores. Discusses house bill that also provides an acceptable solution. States that the federal government is working towards a solution, but that Oregon needs to do something to avoid falling into a gap until a federal solution is achieved.
065	Sen. Deckert	Asks if each state would have to reformulate beverages to conform to their differing definitions.
069	Douglas	Responds that they are asking for a uniform standard and that the federal definition doesn't automatically flow through to the state.

070	Sen. Hannon	Asks if OLCC created the definition by administrative rule.
075	Douglas	Responds negatively.
084	Sen. Hannon	Asks if this would put them in the same restrictive definition that other states follow by having the statutory language rather than having the OLCC administratively taking different action.
094	Douglas	Responds that it could potentially be a problem and that the house bill that was introduced is a better solution because it holds in advance any change that is going on now until the feds adopt a standard.
100	Sen. Deckert	Asks for an estimate on when the feds would move on this issue.
101	Douglas	Responds that he is not sure.
103	Sen. Ringo	Asks about concerns that the beverages being discussed are targeted towards teenagers.
109	Douglas	Responds that there was a study done that concluded that they were not targeted towards teenagers. Discussion follows.
117	Sen. Ringo	Asks why it would not work to sell these beverages in liquor stores rather than grocery stores.
127	Douglas	Responds that liquor stores have no interest in having these drinks in their stores because of their low percent of alcohol.
142	Joe Gilliam	Testifies that the Grocery Association is undetermined on SB 871 because they are trying to clarify the authority of the OLCC and how to keep these products on the shelf. States that their objective is to keep the status quo. Discusses differences in alcohol definitions and questions that they have on the issue. Refer to written testimony. Exhibit 7.
191	Sen. Deckert	Asks if counsel has advised on whether the legislature has the authority to link to federal legislation.
193	Gilliam	Responds negatively. Discussion follows.
209	Paul Romain	Testifies against SB 871 because no matter what the federal government does, Oregon has the authority to determine how to distribute alcohol products. Points out that you cannot tie to what the federal government might do in the future. Discusses study that was done to find out what was in these products. States that there is no need for a bill and that everything that is not beer should be sold in liquor stores rather than grocery stores.
373	Pamela Erickson	Testifies against SB 871 because "malternatives" are targeted towards teenagers and should be sold in liquor stores. Disagrees with the fact that these drinks are taxed at the rate of beer. Refer to written testimony. Exhibit 4.

TAPE 87, SIDE A

019	Sen. Ferrioli	Asks if these drinks could be currently sold at state liquor stores.
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023	Erickson	Responds positively.
024	Sen. Ferrioli	States that he was under the impression that only drinks above 5 percent alcohol could be sold in state liquor stores.
026	Erickson	Responds that she isn't sure about the language of the law.
035	Sen. Hannon	Asks if there was any attempt to regulate this type of sale when Erickson was at the OLCC.
036	Erickson	Responds that when she was at the OLCC, they believed that they were malt beverages and that they didn't question it until they got the formulation which showed they are mostly made up of distilled spirits.
048	Sen. Hannon	Asks if these beverages still have to be bought by over-age people in grocery stores.
053	Erickson	Responds positively.
054	Sen. Hannon	Asks how it gets into the hands of teenagers and why it would be any different in a liquor store.
057	Erickson	Responds that research has showed that younger children are likely to get it from their home or from an older kid, but the older they get the more likely they are to buy it from a convenience store or grocery store. States that you must be 21 to get into a liquor store.
068	Sen. Hannon	Suggests that they need tougher laws in regulating grocery stores and their marketing to teens. States that even if they put these beverages in liquor stores, the advertisements will still be there attracting teenagers.
087	Erickson	Responds that the strategy to reduce underage drinking would be the same as any product, such as frequent compliance checks.
090	Sen. Deckert	Asks if there is evidence that these beverages are targeted towards teenagers and young women.
092	Erickson	Responds that there isn't evidence that a company looks to teenagers as their target customer but that marketers are not careful and that teenagers are susceptible to advertisements.
115	Sen. Deckert	States that it would be easier for them if there was hard evidence that Erickson's assertions were true.
118	Erickson	Responds that there is a major study going on at Georgetown University on marketing to teens and points out that the wine industry is good at targeting adults.
123	Kathy Stromvig	Testifies in opposition to SB 871 and discusses advertising strategies to target under-age drinkers.
167	Sen. Ringo	Asks if there is any objective data on teenage consumption of these beverages.
170	Erickson	Responds that there is no data on which products are being consumed because they are so new.
173	Sen. Ringo	Responds that he would be more comfortable with hard data.

Discussion follows.

201	Sen. Deckert	Asks if they can link to the federal statute on this issue
203	Dave Hendricks	Responds that you cannot pick up subsequent changes. Discusses where the feds are right now in their rule making process.
249	Sen. Hannon	Asks if the OLCC has any intention of adopting a rule or changing the authority on these types of products.
251	John Stubin	Responds that they have been advised by counsel to continue the current state of marketing this product would require a statutory change.
257	Sen. Hannon	Asks what counsel is basing that decision on when Hendricks just informed them that they do not have to follow the federal standard.
259	Stubin	Responds that they became aware from the federal government that these products would have problems meeting state law and that it revolves around the state definition as a malt beverage.
266	Sen. Hannon	Asks about estimated tax revenues from selling this through the OLCC rather than grocery stores.
274	Stubin	Responds that he is not aware of any analysis on tax revenues.
281	Sen. Hannon	Asks if this has anything to do with revenues.
286	Stubin	Responds negatively.
293	Sen. Hannon	Asks if the companies could reformulate the beverages to make them compliant.
298	Stubin	Responds positively.
		Discussion follows.
323	Sen. Deckert	Asks if the OLCC can ban the sale of drinks containing less than 5% alcohol.
328	Stubin	Responds negatively.
332	Sen. Starr	Asks if products that contain less than 5% alcohol could be sold in OLCC stores.
335	Stubin	Responds negatively.
346	Romain	Responds that anything less than .05 percent alcohol is not considered alcohol in definition. Points out that there is no mechanism for distribution of these beverages under Oregon law.
376	Sen. Deckert	Asks how they got to this point.
378	Romain	Responds that there was a lot of confusion in the industry about what was in the product and when a study was done it showed that the majority of the alcohol comes from distilled spirits. Discusses Oregon's definition of a malt beverage.

TAPE 86, SIDE B

- 030	Sen. Corcoran	States that it is his understanding that this was brought to them because of an
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act by the chair of OLCC that other members of the commission were not aware of.

- 035 Stubin Responds that this issue was discussed in public meetings before the board of commissioners and that there was agreement that they had a legal definition problem.
- 043 Romain Responds that the OLCC was very cooperative.
- 061 Mark Nelson Explains the current situation and states his intent to reformulate the products to bring them under the current definition. Declares that a bill is unnecessary because all brewers have decided to reformulate.
- 093 Richard Yates Clarifies alcohol percentages.
- 104 Gregory Altschuh Testifies in support of SB 871 because it is common sense for Oregon's approach to be consistent with federal standards regarding fundamental product definitions. Discusses the malt beverage industry. Refer to written testimony. Exhibits 7-8.
- 232 Sen. Starr Asks how other states are reacting to this issue and what his opinion on reformulation is.
- 241 Altschuh Responds that other states are leaning towards waiting to see if a federal solution is made available and that reformulations have been tried and have all been bad.
- 296 Jim Parker Testifies that these products are not beer and should not be included in the definition of beer.
- 344 Sen. Deckert Asks if he would be comfortable with extending the January 1st date to give more time before the federal decision.
- 346 Parker Responds negatively.
- 366 Sen. Ferrioli States that his problem with this issue is that they are spending a lot of time on it and that if these products are removed from the shelf it would be disruptive and expensive.

Discussion follows.

CLOSES PUBLIC HEARING ON SB 817

OPENS PUBLIC HEARING ON SB 344

- 020 Sen. Corcoran Introduces SB 344 which requires corporations that are engaged in business in Oregon to file with the Secretary of State Office. Expresses support for SB 344 because corporate disclosure is critical during these economic times when two-thirds of the corporations in Oregon are paying only the minimum fee.
- 051 Bob Doppelt Testifies in support of corporate disclosure of environmental, product, and labor/community related liabilities because the state Public Employees Retirement System invests in corporations and if they are not aware of the liabilities of corporations, they are put at risk of major financial problems. Refer to written testimony. Exhibit 10.
- 112 Chuck Sheketoff Testifies in support of SB 344 because it would give the state information that would help them in drawing business to Oregon. Gives history of corporate

income taxes and discusses disparities within industries.

185	Sen. Hannon	States that non-profit organizations should also have to disclose information.
190	Sheketoff	Responds that non-profits are required to disclose federal and state tax forms.
255	Alan Apodaca	Testifies against SB 344 because the solution does not fit the problem, it would cause undue hardship to the state and the taxpayers, and would violate confidentiality of taxpayer policy. Refer to written testimony. Exhibit 11.
314	Sen. Corcoran	Asks if paying hundreds of thousand of dollars in taxes puts J.C. Penney in the third that pays the corporate excise tax or the two-thirds that don't.
316	Apodaca	Responds that he does not know.
318	Sen. Corcoran	States that it is beneficial to know who is paying what in creating tax breaks.
322	Sen. Ringo	Asks what it is about disclosing tax information would reveal proprietary information.
328	Apodaca	Responds that specific information could put them at a disadvantage.
332	Sen. Ringo	Points out that the bill just says tax liability.
336	Joe Schweinhart	Responds that the bill says tax liability and other related information.
		Discussion follows.
399	Sen. Deckert	Asks if any other state requires corporate disclosure.
403	Schweinhart	Responds negatively.

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015	Sen. Starr	States that he can see the value of a competitor knowing how much a corporation is paying taxes in a particular state and using that knowledge as a competitive advantage at the national level.
		Discussion follows.
128	Lee Beyer	Discusses issue of disconnecting from the consolidated tax form filing.

CLOSES PUBLIC HEARING ON SB 344

OPENS PUBLIC HEARING ON SB 807

224	Louis Pitt	Testifies in support of SB 807 because it would provide a tool for tribes that have a critical need for new school facilities. Refer to written testimony. Exhibit 14.
277	Michael Mason	Discusses conversation with John Marshall and possible amendments.
288	Sen. Deckert	Suggests that they bring the bill back next week for a work session.
305	Michael Mason	Points out that the tribe doesn't receive any federal money for education.
305	Roger Martin	Discusses history of federal impact funds.

CLOSES PUBLIC HEARING ON SB 807

346 Sen. Deckert Adjourns meeting at 3:18pm.

Tape Log Submitted by,

Tara Lantz, Committee Assistant

Exhibit Summary:

1. SB 871, Richard Yates, Proposed SB 871-2 Amendments, 1p.
2. SB 871, Richard Yates, Proposed SB 871-3 Amendments, 1p.
3. SB 871, Richard Yates, Staff Measure Summary, 1p.
4. SB 871, Pamela Erickson, Written Testimony, 4pp.
5. SB 871, Gregg Christiansen, Written Testimony, 2pp.
6. SB 871, KC Han, Written Testimony, 2pp.
7. SB 871, Joe Gilliam, Written Testimony, 3pp.
8. SB 871, Gregory Altschuh, Written Testimony, 3pp.
9. SB 344, Lizbeth Martin-Mahar, Staff Measure Summary, 1p.
10. SB 344, Bob Doppelt, Written Testimony, 11pp.
11. SB 344, Alan Apodaca, Written Testimony, 1p.
12. SB 344, Peter Threlkel, Written Testimony, 3pp.
13. SB 807, Steve Meyer, Staff Measure Summary, 1p.
14. SB 807, Louis Pitt, Written Testimony, 2pp.