

HOUSE COMMITTEE ON JUDICIARY
Sub-committee on Criminal Law

April 17, 2001
8:30 a.m.

Hearing Room 357
Tapes 65 - 67

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman
 Rep. Jackie Dingfelder
 Rep. Wayne Kreiger
 Rep. Lane Shetterly
 Rep. Vicki Walker
 Rep. Carl Wilson

STAFF PRESENT: Bill Taylor, Counsel
 Shannon Reed, Committee Assistant

MEASURE/ISSUES HEARD: **HB 3682 Public Hearing and Work Session**
 HB 3049 Public Hearing and Work Session
 HB 2939 Public Hearing
 HB 3109 Work Session
 HB 3535 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.

TAPE/#	Speaker	Comments
TAPE 65, A		
003	Chair Williams	Calls the meeting to order at 8:40 a.m. and opens a public hearing on HB 3682.
HB 3682 PUBLIC HEARING		
018	Paul Cosgrove	Alliance of Automobile Manufacturers Submits testimony and testifies in support of HB 3682 (EXHIBIT A) . Says this bill addresses a new problem in the industry regarding fake air bag repairs by creating a new Class A misdemeanor.
046	Chair Williams	Says his understanding of the bill is that it is designed to send a signal that Oregon is not going to be a welcome territory for a scam such as this.
050	Cosgrove	Replies that is correct. Declares that there is no known opposition to this bill.
058	Chair Williams	Closes the public hearing on HB 3682 and opens a work session.

HB 3682 WORK SESSION

060 Rep. Wilson

MOTION: Moves HB 3682 to the full committee with a DO PASS recommendation.

VOTE: 7-0-0

062 Chair Williams

Hearing no objection, declares the motion CARRIED.

068 Chair Williams

Closes the work session on HB 3682 and opens a public hearing on HB 3049.

HB 3049 PUBLIC HEARING

074 Rep. Jeff Kropf

House District 37

Introduces Sheriff Dave Burrigh and discusses HB 3049 that repeals provision prohibiting county or city from entering into agreements with private entities for employment of inmates of local correctional facilities.

089 Sheriff Dave Burrigh

Linn County, Oregon

Submits testimony and testifies in support of HB 3049

(EXHIBIT B). Contends that it would be appropriate to have inmate labor work on certain kinds of projects--a practice currently illegal according to ORS 169.210.

158 Chair Williams

Closes the public hearing on HB 3049 and opens a work session.

HB 3049 WORK SESSION

160 Rep. Wilson

MOTION: Moves HB 3049 to the full committee with a DO PASS recommendation.

VOTE: 7-0-0

164 Chair Williams

Hearing no objection, declares the motion CARRIED.

168 Chair Williams

Closes the work session on HB 3049 and opens a public hearing on HB 2939.

HB 2939 PUBLIC HEARING

172 Counsel Taylor

Introduces HB 2939 that creates a crime of unlawful removal of large wood. Says that the -1 amendments are being submitted by Rep. Elaine Hopson **(EXHIBIT C)**.

177 Rep. Elaine Hopson

House District 2

Testifies in support of HB 2939. Says that it is the result of a work group involving all interested parties that was assembled last session.

213 Ken Blerly

Oregon Watershed Enhancement Board

Testifies in support of HB 2939. Says that equity is the fundamental issue and that ecological processes are being protected.

261 Rep. Lowe

States that people who use the river find timber that has broken loose and salvage it for their own use, and asks if this bill would make that practice illegal.

279 Blerly

Answers with a qualified yes.

294 Rep. Ackerman

Asks what measurement would define large wood.

302 Blerly

Explains that the -1 amendments define large wood as 10 inches at the largest end.

312 Rep. Lowe

Asks why this activity should be a Class A misdemeanor.

315 Blerly

Says that the drafters chose it to be a Class A misdemeanor.

352 Walt Weber

Necanicum Watershed Council

Submits testimony and testifies in support of HB 2939

(EXHIBIT D). Says his 27 years of experience as a marine biologist is what motivated his interest in large wood in streams. Says it plays a key role in the health of Oregon’s fish population.

TAPE 66, A

031	Rep. Kreiger	Referring to the four exceptions addressed in the bill, asks what other reasons would there be for removing wood.
034	Weber	Replies that navigation is one of the main reasons wood is removed from the streams.
056	Rep. Wilson	Asks about large timber that might cause long-term repairable harm to property or structure.
070	Weber	Answers that nobody is going to object to that kind of removal.
100	Bob May	Rainland Flycasters Submits testimony and testifies in support of HB 2939
150	Irwin Holzman	(EXHIBIT E). Private Citizen Submits testimony and testifies as neutral on HB 2939
227	Rep. Krieger	(EXHIBIT F). Says that the current wording could have an adverse affect on irrigators and people’s rights. Gives examples of potential problems. Asks if the wording on line 15 of the bill would allow removal of wood for the example given.
229	Holzman	Says that the wording is not adequate.
153	Jim Myron	Oregon Trout, Inc. Submits testimony and testifies in support of HB 2939
259	Rep. Lowe	(EXHIBIT G). Ask about the severity of the penalty and wonders what would be more appropriate.
270	Myron	Believes the penalty needs to be sufficient enough to dissuade people from pulling wood out of streams to cut for firewood.
287	Rep. Ackerman	Suggests a lesser penalty of Class A violation that would “decriminalize” the violation.
323	Diane Waldron	Private Citizen Submits testimony and testifies in opposition to HB 2939 and says that the bill is the extension of a “fatally flawed” bill that was passed in the 1999 session (EXHIBIT H).

TAPE 65, B

035	Pete Test	Oregon Farm Bureau Submits testimony and testifies in opposition to HB 2939 (EXHIBIT I) . Says that this bill creates a situation where there is no clear understanding of the problem.
095	Glen Stonebrink	Oregon Cattlemen’s Association Testifies in opposition to HB 2939. Discusses the flaws in the bill.
151	Rep. Dingfelder	Asks about narrowing the scope of stream definition with regard to the waters of the state.
155	Stonebrink	Responds that would make more sense.
161	Mike Dewey	Oregon Wheat Grower’s League Testifies in opposition to HB 2939. Says landowners know that future harm can occur because of large wood, but this bill would not allow them to do anything about it until it is eminent.
220	Ted Lorensen	Department of Forestry Submits testimony and testifies in support of HB 2939 (EXHIBIT J) . Says the bill provides some level of protection, but is concerned that it misses some key points.
301	Rep. Lowe	Asks if the definition of large wood should refer to “ungroomed” wood.
338	Lorensen	Responds that better definitions would satisfy most involved.
382	Rep. Ackerman	Asks for incidences of wood removal that have endangered fish habitat.
386	Lorensen	Says the best examples would be after a large flood event.
414	Rep. Ackerman	Asks why the activity of removing large wood should be “criminalized”.
404	Lorensen	Says it depends on whether it is a commercial or private activity.
TAPE 66, B		
005	Rep. Ackerman	Asks about removal and salmon recovery.
010	Lorensen	Says that he needs to study the amendments further.
021	Ray Wilkeson	Oregon Forestry Industry Council Testifies in support of HB 2939. Talks about the revenue impact of leaving large wood behind for the purpose of good structure in and along streams.
068	Rep. Krieger	Asks about wood in the lowlands.
074	Wilkeson	Says that some of that wood is important to certain species such as the Coho Salmon.
093	Kristina McNitt	Oregon Small Woodlands Association and Oregon Water Resources Congress Testifies in opposition HB 2939. Says that definitions are not specific enough.
190	Roy Elicker	Oregon Department of Fish and Wildlife Submits testimony and testifies in support of HB 2939 (EXHIBIT K) . Contends that more large woody debris in our streams would help increase our salmon populations.
222	Rep. Ackerman	Asks about the “criminalizing” of the activity of wood removal.
227	Elicker	Agrees that a Class A misdemeanor is too harsh.
241	Rep. Dingfelder	Asks how debris movement is tracked.
246	Elicker	Responds that they do field surveys, but do not track individual

261	Rep. Krieger	pieces.
264	Chair Williams	Closes the public hearing on HB 2939.
		Opens a work session on HB 3109.
<u>HB 3109 WORK SESSION</u>		
275	Counsel Taylor	Introduces HB 3109 that expands the definition of protected property for arson in the first degree to include private buildings with appraised value of \$100,000 or more. Says the –4 amendments basically replace the bill (EXHIBIT L).
315	Chair Williams	MOTION: Moves to ADOPT HB 3109-4 amendments dated 4/13/01.
		VOTE: 7-0-0
318	Chair Williams	Hearing no objection, declares the motion CARRIED.
319	Chair Williams	MOTION: Moves HB 3109 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0-0
321	Chair Williams	Hearing no objection, declares the motion CARRIED.
324	Chair Williams	Closes the work session on HB 3109 and opens a public hearing on HB 3535.
<u>HB 3535 PUBLIC HEARING</u>		
337	Bill Houser	Oregon Criminal Defense Lawyers Association
		Testifies in opposition to HB 3535 that provides that activation of electronic article surveillance system as person leaves store is probable cause for believing person has committed theft of property of mercantile establishment. Says that probable cause requires taking into consideration all the circumstances surrounding the event in question.
364	Greg Kafoury	Private Attorney, Portland, OR
		Testifies in opposition to HB 3535. Discusses the probable cause issue.
TAPE 67, A		
055	Counsel Taylor	Asks about probable cause language being changed to reasonable suspicion.
057	Houser	Responds yes.
058	Kafoury	Responds no.
083	Julie Brandis	Associated Oregon Industries
		Testifies in support of HB 3535. Says that the equipment is installed to deter theft, but the stopping of customers should be handled as a customer service to remove the sensor devices.
103	Rob Simmons	GI Joe's Retail Store
		Testifies in support of HB 3535. Says that the presence of the devices is a deterrent. Talks about how they handle a situation with a customer when a device goes off.
137	Amy Peterson	Northwest Retail Loss Prevention Association
		Testifies in support of HB 3535. Says the association members are concerned about lawsuits.
169	Joe Kopelic	Fred Meyer Retail Stores
		Testifies in support of HB 3535. Discusses the proper use of sensor devices.
274	Gary Oxley	Rite-Aid, Fred Meyer, Safeway Retail stores

287 Chair Williams Testifies in support of HB 3535. Supports the testimony of the others on the panel of supporters.
Closes the public hearing on HB 3535 and adjourns the meeting at 10:50 a.m.

Transcribed by,	Submitted by,	Reviewed By,
Jane Bodenweiser Committee Assistant	Shannon Reed Committee Assistant	Bill Taylor, Counsel

EXHIBIT SUMMARY

- A – HB 3682, written testimony submitted by Paul Cosgrove, 6 pp**
- B – HB 3049, written testimony submitted by Sheriff David Burrignt, dated 4/17/01, 5 pp**
- C – HB 2939, -1 amendments submitted by Rep. Elaine Hopson, dated 3/5/01, 1 p**
- D – HB 2939, written testimony submitted by Walt Weber for Bob May, dated 3/17/01, 1 p**
- E – HB 2939, written testimony submitted by Bob May, dated 3/15/01, 1 p**
- F – HB 2939, written testimony submitted by Irwin Holzman, dated 4/13/01, 3 pp**
- G – HB 2939, written testimony submitted by Jim Myron dated 4/17/01, 1 p**
- H – HB 2939, written testimony submitted by Diane Waldron, dated 4/5/01, 2 pp**
- I – HB 2939, written testimony submitted by Pete Test, dated 4/17/01, 1 p**
- J – HB 2939, written testimony submitted by Ted Lorensen, dated 4/17/01, 2 pp**
- K – HB 2939, written testimony submitted by Roy Elicker, dated 4/16/01, 1 p**
- L – HB 3109, -4 amendments submitted by staff, dated 4/13/01, 1 p**
- M – HB 2939, written testimony submitted by Bill Bakke, dated 4/16/01, 1 p**