

HOUSE COMMITTEE ON JUDICIARY

May 23, 2001
8:00 a.m.

Hearing Room 357
Tapes 68 - 69

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Wayne Krieger, Vice-Chair
 Rep. Robert Ackerman
 Rep. Vic Backlund
 Rep. Jackie Dingfelder
 Rep. Lane Shetterly
 Rep. Cherryl Walker
 Rep. Vicki Walker

MEMBER EXCUSED: Rep. Kathy Lowe, Vice-Chair
 Rep. Charlie Ringo
 Rep. Carl Wilson

STAFF PRESENT: Andrea Shartel, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: SB 166A Public Hearing
 SB 647A Public Hearing
 SB 220A Work Session
 SB 925A 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 68, A		
015	Chair Williams	Calls the meeting to order at 8:15 a.m. and opens a public hearing on SB 166A.
<u>SB 166A PUBLIC HEARING</u>		
020	Senator Peter Courtney	Senate District 17 Testifies in support of SB 166A.
102	Rep. Shetterly	Asks about -A4 amendments (EXHIBIT B).
110	Counsel Shartel	Says that the -A4 amendments are on there way.
115	Scott Beckstead	Waldport Testifies in support of SB 166A.
200	Sharon Harmon	Director, Oregon Humane Society Testifies in support of SB 166A and the -A5 amendments (EXHIBIT A).
288	Justice Tom Bradford	Circuit Court, Lincoln County Testifies in opposition to SB 166A. Supports the -A5 amendments.
410	Rep. V. Walker	Asks Judge Bradford if people currently have a cause of action for people harming their animal.
418	Justice Bradford	Answers that there may not be a specific cause of action, but if you can show that the owner allowed the dog to run at large or let

		it trespass then that would be a statutory violation and would be a sufficient basis to file a small claims action.
479	Lana Butterfield	Safeco Insurance Company
491	Pete Test	Testifies in support of –A4 (EXHIBIT B) and –A5 amendments. Oregon Farm Bureau
045	Chair Williams	Testifies in support of the measure as it came to Committee and the –A4 amendments.
TAPE 68, B		Closes the public hearing on SB 166A.
003	Chair Williams	Members advise staff of areas of concern on SB 166A prior to next meeting. Opens a public hearing on SB 647A.
<u>SB 647A PUBLIC HEARING</u>		
048	Senator Kate Brown	Senate District 7
		Testifies in support of SB 647A4 that requires financial institutions, medical businesses and tax preparation businesses to take specific types of actions to render personal information unusable before disposing of records and discusses amendments (EXHIBITS C, D & E).
115	Rep. Shetterly	Questions if a contract service with a shredding company would meet the requirements of the measure.
119	Sen. Brown	Answers yes.
133	Rep. C. Walker	Speaks in support of the measure and notes for record that in Portland identity theft has gone up 58% in the last year; cited figures of reported postal fraud and lack of enforcement on that front.
165	Rep. Shetterly	Questions definition of “medical business” in §1 (2), page 1, lines 8-10, of the printed A-Engrossed measure – how far reaching is this and would it help to clarify the definition to narrow the scope.
182	Sen. Brown	Says she would not object to clarification.
201	Paul Cosgrove	Nationwide Insurance
		Testifies in opposition to SB 647A and has some concerns.
277	Dave Fiskum	Providence Health System
		Testifies in opposition to SB 647A.
324	Jo Bell	Oregon Association of Hospitals and Health Systems (OAHHS)
		Testifies in opposition to SB 647A.
344	Rep. Ackerman	Asks if an exemption to this Act would be in order if an equivalent duty exists under internal practices or compliance with applicable federal law.
349	Fiskum	Says Leavitt has language to be submitted that would address that.
357	Rep. Ackerman	Requests what internal controls applicable to federal law are currently in place and if they are sufficient to protect the public.
362	Cosgrove	Describes one of his client’s records destruction policy, which is similar to SB 647A.
379	Bell	Comments on regulations used by all hospitals but do not have the details.
390	Rep. Shetterly	Speaks to option of allowing exemption for businesses or services that are otherwise regulated in the manner of handling and disposal of information – this measure could act as a safety net rather than as another regulation.

407	Fiskum	Speaks to the virtue of Rep. Shetterly's approach.
415	Chair Williams	Asks what the vote was in the Senate.
416	Fiskum	Says he thinks that it was unanimous.
420	Chair Williams	Questions if these issues were raised on the Senate side.
421	Fiskum	Says no.
437	Chair Williams	Says that the vote in the Senate was 29 yeas, 1 nay.
442	Rep. Ringo	Unintelligible.
448	Fiskum	Notes that §2 (1) (d), page 2, lines 14-16, of the printed A-Engrossed measure should cover it, but because of the remedy concern it would be the subject of a lawsuit – that is our concern of the enforcement being tied into the requirements of the measure.
476	Rep. V. Walker	Asks for definition of acronym HIPA.
482	Bell	Health Insurance Portability and Accountability Act.
490	Pamela Leavitt	Credit Union Association of Oregon Testifies on SB 647A and submits testimony (EXHIBIT F).
TAPE 69, A		
001	Leavitt	Continues testimony on SB 647A.
076	Julie Brandis	Association of Oregon Industries (AOI) Testifies on SB 647A and has some concerns.
121	Dave Nelson	Oregon Association of Oregon Insurance and Financial Advisors Testifies on SB 647A.
148	Rep. V. Walker	Questions why the measure is so narrowly written.
167	Rep. Shetterly	Notes that most attorneys probably are covered by this measure as it applies to the business and not the records.
174	Vice-Chair Krieger	Closes the public hearing on SB 647A and opens a work session on SB 220A.
<u>SB 220A WORK SESSION</u>		
182	Counsel Shartel	Reviews history on measure and reported that only testimony came from Sen. Courtney, sponsor of the measure, before the Civil sub-committee; there are no amendments.

189	Wes Ediger	Executive Director, Oregon School Activities Association (OSAA) Testifies in support of SB 220A.
204	Rep. Dingfelder	Asks why the change was made in 1993 and questions if research into legislative history was made.
213	Counsel Shartel	States she did not do the research, the Staff Measure Summary is based on research done by Marilyn Odell and the OSAA.
217	Rep. Backlund	Asks how many court cases have there been.
222	Ediger	Says he cannot provide a figure, but there have been a number of hearings in eight years – most are resolved in the hearings process and do not advance to court.
229	Rep. Backlund	Speaks from his experience to a considerable increase in court cases and supports the measure.
238	Rep. Shetterly	Says that timeliness is important and the added level of review delays the process.
239	Rep. Shetterly	MOTION: Moves SB 220A to the floor with a DO PASS recommendation. VOTE: 7-0-4
261	Vice-Chair Krieger	EXCUSED: 4 – Ringo, Wilson, Lowe, Williams Hearing no objection, declares the motion CARRIED. REP. BACKLUND will lead discussion on the floor.
276	Vice-Chair Krieger	Closes the work session on SB 220A and opens a work session on SB 925A.
<u>SB 925A WORK SESSION</u>		
278	Counsel Shartel	Introduces SB 925A, which was heard in the Civil Subcommittee; the only testimony heard was Bill Perry, Oregon Restaurants Association. The measure deals with the kind of suits that can be filed by an intoxicated person.
289	Rep. Shetterly	Summarizes the intent of the measure. Say it would apply only to a patron or guest who voluntarily consumes alcoholic beverages and subsequently causes harm to themselves forfeiting their right to hold the host/provider liable for their own injury. Adds that the measure does not apply to injuries caused to third parties or to claims for relief based on damages or intentional acts other than the service of alcohol.
332	Rep. V. Walker	Asks if this measure would absolve the server of liability in serving a person who is visibly intoxicated and ultimately injures/dies as a result of over-intoxication.
342	Rep. Shetterly	Answers yes; the measure recognizes some element of personal responsibility and that this does not create an incentive for bar owners to serve a person in an intoxicated state because of the risk of harm to third parties.
367	Rep. Dingfelder	Wonders if anyone testified in opposition.
377	Shartel	Says no.
385	Rep. Backlund	Asks if all stakeholders resolved their differences on this measure?
380	Bill Perry	Oregon Restaurant Association Testifies in support of SB 925A; discusses the two issues raised,

278 Chair Williams which have been resolved.
MOTION: Moves SB 925A to the floor with a DO PASS recommendation.
VOTE: 8-0-3

432 Chair Williams **EXCUSED: 3 – Ringo, Wilson, Lowe**
Hearing no objection, declares the motion CARRIED.
REP. V. WALKER will lead discussion on the floor.

300 Chair Williams Closes the work session on SB 925A and adjourns the meeting at 9:45 a.m.

Transcribed By,

Joan Green
Committee Assistant

Submitted By,

Ann Martin,
Committee Assistant

Reviewed By,

Andrea Shartel,
Counsel

EXHIBIT SUMMARY

- A – SB 166, -A5 amendments submitted by staff, dated 05/23/2001, 2 pp**
- B – SB 166, -A4 amendments submitted by staff, dated 05/16/2001, 2 pp**
- C – SB 647, -A3 amendments submitted by staff, dated 05/21/2001, 3 pp**
- D – SB 647, -A4 amendments submitted by staff, dated 05/22/2001, 2 pp**
- E – SB 647, -A5 amendments submitted by staff, dated 05/22/2001, 1 p**
- F – SB 647, written testimony submitted by Pamela Leavitt, dated 05/23/2001, 3 pp**