

HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

March 21, 2001
3:15 PM

Hearing Room 50
Tapes 73 – 76

MEMBERS PRESENT: Rep. Bill Witt, Chair
Rep. Betsy Johnson, Vice-Chair
Rep. Tim Knopp, Vice-Chair
Rep. Alan Bates
Rep. Alan Brown
Rep. Janet Carlson
Rep. Richard Devlin
Rep. Bill Garrard
Rep. Jerry Krummel
Rep. Laurie Monnes-Anderson
Rep. Vicki Walker

STAFF PRESENT: Daniel Clem, Committee Administrator
Renee' Lunsford, Committee Assistant

MEASURE/ISSUES HEARD: HB 3791 Public Hearing and Work Session
HB 2638 Public Hearing
HB 2964 Public Hearing
HB 2965 Public Hearing
HB 3008 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 #72 not used)		
TAPE 73, A		
005	Chair Witt	Calls the committee to order at 3:15 p.m. and opens a public hearing on HB 3791.
<u>HB 3791 PUBLIC HEARING</u>		
015	Dan Clem	Committee Administrator. Reads staff preliminary summary on HB 3791.
049	Darrell Fuller	Representing the Oregon Automobile Dealers Association. Submits written testimony (EXHIBIT A) and testifies in support of HB 3791.
139	Rep. Monnes-Anderson	Asks Mr. Fuller to explain what a bond is and how it relates to a vehicle dealer.
142	Fuller	Explains what a bond is and how it works in relationship to a vehicle dealer.
175	Chair Witt	Asks for clarification that if there is a claim against the bond, the bond will need to be increased back to what the required minimum is.
182	Fuller	Responds that if a bond pays out a claim, the dealer would lose their bonding and lose their dealer's license.
192	Rep. Walker	Asks why they are taking the graduated approach to increasing the bond.
195	Fuller	Responds they are taking the graduated approach to eliminate

197	Rep. Walker	opposition to the bill. Asks for clarification that the reason there is no increase in fees for bonding motorcycle dealers is that there is no problem in that industry.
210	Ed Hughes	Representing the Oregon Motorcycle Dealers Association. Responds affirmatively.
215	Rep. Walker	Asks for clarification that they have worked with the Attorney General and all parties on this bill and that the other bill the Attorney General brought to the committee will not be worked on.
220	Fuller	Responds that this bill has nothing to do with the other bill.
233	Rep. Bates	Asks Mr. Fuller if he has had experience with dealerships failing and lawsuits entailing, and what kind of recovery people get on their money.
245	Fuller	Responds that the Attorney General's office provided some statistics on dealerships that did fail at an earlier meeting on another bill.
281	Monty King	Executive Director, Oregon Independent Auto Dealers Association. Submits written testimony (EXHIBIT B) and testifies in support of HB 3971.
321	Rep. Monnes-Anderson	Asks for clarification that Mr. King is okay with the language regarding the cap on the amount of the administrative fee, even though this is not his preference.
331	Chair Witt	Responds that the -1 amendments state that the fee will go to \$50 and it gives the Department of Transportation the authority to increase the fee above this.
335	Fuller	Comments in support of the -1 amendments.
349	Chair Witt	Comments on his work in crafting the language.
370	Rep. Garrard	Asks if there is a cap on the administrative fee.
374	Chair Witt	Responds that statutorily it is at \$50, but the Department of Transportation can raise it.
387	Fuller	Comments further on the amount of the administrative fee.
403	Chair Witt	Closes the public hearing and opens a work session on HB 3791.

HB 3791 WORK SESSION

406	Rep. Garrard	MOTION: Moves to ADOPT HB 3791-1 amendments dated 3/16/01.
		VOTE: 9-0
		EXCUSED: 2 - Brown, Carlson
411	Chair Witt	Hearing no objection, declares the motion CARRIED.
414	Rep. Garrard	MOTION: Moves HB 3791 to the floor with a DO PASS AS AMENDED recommendation.
421	Rep. Walker	Comments in support of the bill.
435	Rep. Bates	States that the threat of losing the bond and the threat of losing the dealership is very important and it does work.
		VOTE: 9-0
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 2 - Brown, Carlson
463	Chair Witt	The motion CARRIES.
		REP. WITT will lead discussion on the floor.
471	Chair Witt	Closes the work session on HB 3791 and opens a public hearing on HB 2638.

HB 2638 PUBLIC HEARING

475	Clem	Reads preliminary staff summary on HB 2638.
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050	King	Submits written testimony (EXHIBIT C) and testifies in support of HB 2638.
111	Rep. Bates	Asks for clarification on what the –1 amendments do.
114	King	Responds that the –1 amendment changes the bill language from 2 days to 15 days.
116	Rep. Walker	Questions how a tow company can backdate a receipt and say they towed a vehicle on a date that they didn't tow it on.
123	King	States that he does not understand it.
134	Rep. Johnson	Questions the lack of any fiscal impact.
145	Rep. Monnes-Anderson	Comments on an experience she had with her vehicle being towed and stored.
164	Rep. Devlin	Comments on the claims against the customer that the towing company would have as the lien holder. States that 15 days might be too long of a notification period.
181	King	Agrees with Rep. Devlin's comments.
209	Kelly Taylor	Oregon Department of Transportation. Explains how the notification process works. States the –2 amendments are unnecessary.
282	Rep. Garrard	Questions whether DMV has tracked how many requests they deal with per day.
285	Taylor	Responds that they get about 30 requests per day.
297	Rep. Walker	Asks if a certified record is available on the automated telephone system.
313	Taylor	Responds that it comes out automatically even from the telephone system.
316	Rep. Walker	Asks what the fiscal impact would be if they adopted the –2 amendments.
319	Taylor	Responds that she does not know what it would cost.
323	Rep. Walker	States she would like to see the 20-day time period reduced to five days.
326	Rep. Krummel	Asks for clarification that a tow company can access certified vehicle records 24 hours a day, 7 days a week.
335	Taylor	Responds that is her understanding.
340	Rep. Krummel	Asks for clarification that they would have access to a live operator if needed.
347	Taylor	Responds affirmatively.
351	Rep. Krummel	Asks for clarification that the operator could tell the tow company what the flag on a record is.
355	Taylor	Responds affirmatively.
362	Rep. Krummel	Asks how long it would take to get this information to the dealer in the mail.
368	Taylor	Responds it is mailed the morning following the request with the certified vehicle record. States that they have a dedicated fax number just for the towing companies and lien companies.
391	Rep. Krummel	Asks if a dealer could receive the vehicle record via fax.
394	Taylor	Responds that she is not sure. States that she does not believe the vehicle record would still be considered certified if it were a fax copy.
409	Chair Witt	States he is inclined to ask staff to request a –3 amendment for this bill.
438	Rep. Krummel	States he would like to add language that states if the owner of the vehicle is unknown, that the tow company must order the certified vehicle record within two days of towing or as soon as practical.

480 Rep. Garrard Notes that the tow operators are not here to speak for themselves. Questions whether the committee should consider the fact that it may take longer to track down the owner of an out-of-state vehicle.

TAPE 73, B

053 Rep. Garrard States that his concern is for the consumer.
070 Rep. Krummel States that these companies do not need very many days to request the information.
083 Rep. Devlin Comments on the cost to the towing company for towing and storing vehicles.
096 Chair Witt Closes the public hearing on HB 2938 and opens a public hearing on HB 2964.

HB 2964 PUBLIC HEARING

109 Clem Reads preliminary staff summary on HB 2964.
118 Chair Witt Asks if there is the possibility of this bill having a fiscal impact.
120 Clem Responds that LFO has not received complete responses from two agencies.
127 King Submits written testimony (**EXHIBIT D**) and testifies in support of HB 2964.
169 Chair Witt Asks what are some of the reasons another jurisdiction would revoke or suspend a license.
179 King Responds that they would probably be for the same reasons that Oregon does.
189 Chair Witt Asks Mr. King if he knows of any situations in Oregon where the license was suspended or revoked that, in his opinion, was not justified.
201 King Responds he does not.
205 Rep. Bates Asks if a dealership had a minor problem in another state and lost their license, would the bill prevent them from opening one in Oregon.
211 King Responds that the way the bill is currently written they would be, but under the -1 amendments they would not license was revoked in another state.
227 Rep. Garrard Questions whether there should be a time period established if they are going to prevent a dealership from setting up in Oregon.
239 King Responds that the bill only concerns itself with those individuals who are currently revoked or suspended from being a dealer in another state.
259 Fuller Oregon Automobile Dealers Association. Testifies in opposition to HB 2964.
325 Chair Witt Asks if the current application requires a person to disclose if they've ever held a license or certificate in another state.
328 Fuller Responds he does not know. Suggests working on this issue during the interim.
355 Taylor Responds that the current application does ask if they've been license in another jurisdiction, and if so, are they currently suspended or revoked. States that the bill really isn't necessary.
404 Rep. Garrard Questions whether this is really an issue between new car dealers and used car dealers.
428 Fuller Responds that it is only an issue in that most used car dealers do not have multiple sites in multiple states. States that if the bill is not crafted carefully enough it could potentially harm larger dealers.
436 King Comments that under current DMV rules these dealers should

not be getting licensed, but the rules are not being enforced.

TAPE 74, B

034 Chair Witt

Closes the public hearing on HB 2964 and opens a public hearing on HB 2965.

HB 2965 PUBLIC HEARING

036 Clem

Reads preliminary staff summary on HB 2965.

062 King

Submits written testimony (**EXHIBIT E**) and testifies in support of HB 2965.

099 Rep. Devlin

Asks for clarification that a car still belongs to a dealer if it is sold to them or traded in and the person selling or trading in the car has a fraudulent second title.

120 King

Responds that he does not believe this is correct. Explains.

140 Rep. Walker

States that this is a big problem nationwide and the bill is a small effort to address it. Notes that it protects the dealer, but it does not protect the consumer.

144 King

States that it can protect the consumer if the consumer does a good job in buying the vehicle.

161 Taylor

Submits written testimony (**EXHIBIT F**) and testifies that the bill will not do much to address the problem.

257 Rep. Johnson

States that she is trying to reconcile Ms. Taylor's testimony with the fiscal impact statement they have on the bill.

259 Taylor

Clarifies that what she believes LFO did was drop off the cost of changing the computer system.

270 Rep. Walker

Asks whether the constant changing over of the title would cause a considerable problem for ODOT.

275 Taylor

Responds affirmatively.

291 Rep. Walker

Asks if this is going to cause a problem in perfecting security interests.

300 Taylor

Responds that ODOT believes it complicates the situation.

317 Mike Dewey

Representing the Consumer Lending Alliance and the Alliance of Title Loan Companies. Testifies in opposition to HB 2965.

406 Mark Nelson

Representing Northwest Title Loans. Testifies in opposition to HB 2965.

TAPE 75, A

028 Regina Covington

Dealer Title Service. Testifies in support of HB 2965.

060 Rep. Bates

Notes the appearance of contradictory statements from two groups in regards to the issue of a second title.

067 Covington

Explains that when a dealer takes a vehicle into inventory and if they have a valid title, there is no security interest that needs to be perfected.

075 Rep. Bates

Asks for clarification that part of the problem could be resolved by dealers deciding not to accept lost title applications.

080 Covington

Responds that it's a possibility this would solve part of the problem.

090 Rep. Walker

Asks if a dealer would take a car without the title.

098 Covington

Responds it is common practice.

100 Rep. Walker

Asks whether a dealer has to pay off the title lender loan by virtue of the contract the borrower has with them, since the dealer has now purchased the vehicle.

121 Covington

Responds affirmatively.

123 Rep. Walker

Asks if the dealer could bring fraud action against the person who sold them the car.

129 Covington

Responds that she believes they could. Notes that the penalty for an Oregon dealer not to satisfy interest within 15 days is \$1000.

141	Rep. Walker	Asks if another way to approach this issue would be to make an exception to the rule in the event that the dealer does not know another security interest exists.
148	King	Responds that the problem is that a dealer can check with DMV and not find out that there is a person who has a security interest. Comments in support of the bill.
180	Vice-Chair Knopp	Closes the public hearing on HB 2965 and opens a public hearing on HB 3008.

HB 3008 PUBLIC HEARING

190	Ted Sims	Attorney representing the Oregon Independent Auto Dealers Association. Testifies in support of HB 3008.
256	Rep. Garrard	Asks if there is anything that protects a person who unknowingly sells a vehicle without knowing that it was previously damaged.
264	Sims	Responds that it provides for an implied warranty.
280	Brian Doherty	Representing Insurance Auto Auctions. Testifies in opposition to HB 3008. Submits proposed amendments (EXHIBIT G).
347	Fuller	Submits written material (EXHIBIT H) and testifies in opposition to HB 3008.
400	Rep. Walker	Asks for clarification that ignorance has never been an affirmative defense under the law.
402	Doherty	Responds that in these statutes it states that a person cannot knowingly make a false indication about an odometer or about a vehicle title.
413	Rep. Walker	Asks whether the material Mr. Fuller submitted pertains to the previous bill the committee discussed.
419	Fuller	Responds affirmatively.
420	Chair Witt	Asks Mr. Doherty if he would support the bill with the proposed -1 and -2 amendments.
425	Doherty	Responds affirmatively.
435	Chair Witt	Asks for clarification that the proposed amendments do not resolve Mr. Fuller's concerns.
440	Fuller	Responds affirmatively. Comments on his concerns with the bill.
TAPE 76, A		
030	Chair Witt	States that a form is not needed to enforce implied warranties.
036	Doherty	Notes that most used cars have an "as is" agreement.
048	Rep. Devlin	Comments on the need to include a requirement in the bill that the dealer has some obligation to ask for the disclosure from the person selling the vehicle to the dealer.
058	King	Submits written testimony (EXHIBIT I) and testifies in support of HB 3008.
082	Vice-Chair Knopp	Closes the public hearing on HB 3008 and adjourns the committee at 6:00 p.m.

Submitted By,

Reviewed By,

Renee' Lunsford,
Committee Assistant

Daniel Clem,
Committee Administrator

Transcribed By,

Stephen Kosiewicz

EXHIBIT SUMMARY

- A – HB 3791, written testimony, Darrell Fuller, 2 pp.**
- B – HB 3791, written testimony, Monty King, 3 pp.**
- C – HB 2638, written testimony, Monty King, 6 pp.**
- D – HB 2964, written testimony, Monty King, 6 pp.**
- E – HB 2965, written testimony, Monty King, 2 pp.**
- F – HB 2965, written testimony, Kelly Taylor, 2 pp.**
- G – HB 3008, written material, Brian Doherty, 2 pp.**
- H – HB 3008, written material, Darrell Fuller, 2 pp.**
- I – HB 3008, written testimony, Monty King, 2 pp.**