

# HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

March 26, 2001  
3:15 PM

Hearing Room 50  
Tapes 77 – 78

**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 3436 Public Hearing  
HB 2007 Public Hearing  
HB 3192 Public Hearing

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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.

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 77, A</b>		
005	Chair Witt	Calls the committee to order at 3:15 p.m. and opens a public hearing on HB 3436.
<b><u>HB 3436 PUBLIC HEARING</u></b>		
015	Rep. Bill Morrisette	House District 42. Testifies in support of HB 3436.
048	Rep. Phil Barnhart	House District 40. Testifies in support of HB 3436.
104	Chair Witt	Asks if Rep. Barnhart has a definition for "urban area".
110	Rep. Barnhart	Responds that he took this language directly out of administrative rules.
113	Rep. Johnson	Asks what would happen if a school moved in to an area within 500 feet of a licensed establishment.
120	Rep. Barnhart	Explains that this would be part of the reason for adopting a "grandfather clause".
124	Rep. Monnes-Anderson	States there are off-site facilities where schools provide training. Asks if they would be included in this bill.
136	Rep. Barnhart	States the definition of schools is rather loose as they are looking at it now.
152	Rep. Monnes-Anderson	Explains the reason for her question.
157	Rep. Morrisette	Comments on the situation in his district where an alternative school moved into a facility near a licensed establishment.
178	Rep. Walker	Questions how they can prevent an establishment that sells liquor from being near a school when they cannot prohibit sexually oriented businesses from being near a school.

189	Rep. Barnhart	Responds that the State of Oregon has control over the sale of alcohol, but it does not have control over anything else.
205	Chair Witt	Note that this is also not a First Amendment issue.
213	Rep. Bates	Comments on the definition of what a secondary school is.
224	Rep. Johnson	Notes that the bill is fairly site specific. Asks if any other possible solutions have been discussed.
240	Rep. Morrisette	Responds that he is not aware of any.
267	Rep. Barnhart	Explains why he introduced the bill.
289	Rep. Johnson	Expresses concerns regarding the transitory nature of some schools.
311	Charlie Beck	Director of Secondary Schools, Springfield. Submits written testimony ( <b>EXHIBIT A</b> ) and testifies in support of HB 3436.
357	Deborah Harford	Testifies in support of HB 3436.
376	Rep. Krummel	Asks why they chose 500 feet as opposed to 1,000 feet, since most city blocks are about 600 feet.
380	Beck	Responds that most city blocks are 300 feet.
394	Rep. Krummel	Asks if there is a distinction between schools like Montessori School or Learning Tree and other elementary or secondary schools.
408	Beck	Responds that these are generally not facilities that lead towards a degree.
428	Rep. Krummel	Asks what the definition of an elementary or secondary school is.
435	Beck	Responds that the definition is that the school has a program that leads towards a degree.
456	Harford	Notes that this is an amendment to current code, which does cover child care facilities.
461	Rep. Krummel	States that he knows of child care facilities in his district that are near licensed establishments.
477	Harford	States that the key points they wanted taken care of in the bill were the elementary and secondary schools, as well as drug and alcohol treatment and rehabilitation facilities.
478	Rep. Barnhart	Notes that there is an Oregon administrative rule, which contains almost the same language as the statute, except it adds a number of other kinds of facilities.
<b>TAPE 78, A</b>		
049	Rep. Carlson	Questions the significance of earlier testimony that some liquor establishments are only open on evenings and weekends and whether this makes a difference.
059	Beck	Responds that they believe this particular establishment plans to expand its hours, and the alternative school located near it does have evening classes.
064	Rep. Carlson	Asks if there are people arguing that since these establishments are only open evenings and weekends they are not a problem and they can stay there.
066	Beck	Responds that this is not pertinent to the discussion on the bill since there are schools that have evening programs.
067	Rep. Garrard	Asks if there is any law prohibiting the placement of a tavern within 500 feet of these schools.
072	Beck	Responds that he believes there is.
075	Chair Witt	Asks for clarification that the bill prohibits OLCC from issuing a license.
079	Harford	Responds affirmatively.
080	Chair Witt	Questions the purpose of the bill.
089	Beck	Responds that they do not want to have this influence on the

		students.
096	Chair Witt	Asks for clarification that based on what they are trying to accomplish, applying this to preschools doesn't make any sense.
098	Beck	Responds that as an educator, having an establishment serving alcohol across the street from a preschool is something he wouldn't want.
100	Chair Witt	States that this is not consistent with the intent of the bill.
109	Rep. Carlson	Suggests that if the intent is that narrow, they should not include elementary schools either.
112	Rep. Brown	Asks if the bill was passed as it is now, would it prevent an upscale restaurant that served alcohol from being within 500 feet of a school.
115	Beck	Responds that he believes it would.
120	Rep. Brown	States that this is going to have an impact on a wider variety of establishments than just a tavern.
126	Pamela Erickson	Director, Oregon Liquor Control Commission (OLCC). Explains OLCC's administrative rule for denying a new license based on where the premise is located. Comments on the problem premises in Springfield.
160	Rep. Monnes-Anderson	Asks for clarification that an establishment such as 7-11 needs a license.
168	Erickson	Responds that these types of establishments have an off-premise license and this would not be encompassed here.
179	Rep. Carlson	Asks which statute the testimony submitted by the Springfield Public Schools was referencing.
178	Erickson	Responds that she will provide this to the committee.
180	Rep. Krummel	Asks how often the OLCC denies applications based on the items Ms. Erickson referred to earlier.
193	Erickson	Responds that it is not very often.
198	Rep. Krummel	Asks how often OLCC denies an application when the local government recommends that they don't allow a license to be issued.
201	Erickson	Responds that it happens maybe half of the time. Notes that 90-95% of the time the local government's recommendation is favorable.
210	Rep. Krummel	Asks if the bill would affect hotels with convenience bars located in individual rooms.
220	Erickson	Responds affirmatively.
226	Rep. Garrard	Asks for clarification that if there was an establishment that had on-premise alcohol and a learning center decided to move in across the street, would this result in the establishment not having its license renewed.
232	Erickson	Responds that OLCC's rule applies to new outlets.
241	Grover Simmons	Representing the Oregon State Elks Association. Testifies in opposition to HB 3436.
303	Chair Witt	Asks if the current law is done by rule or by statute.
305	Simmons	Responds that he believes it is an administrative rule.
308	Erickson	Confirms that it is an administrative rule.
319	Rep. Monnes-Anderson	Asks how OLCC addresses the issue of establishments that include day care facilities.
330	Erickson	Responds that the second part of the rule is the determining factor.
346	Chair Witt	Closes the public hearing on HB 3436 and opens a public hearing on HB 2007.

**HB 2007 PUBLIC HEARING**

357	Dan Clem	Committee Administrator. Reads staff preliminary summary on HB 2007. Explains the provisions of the –1 amendments.
<b>TAPE 77, B</b>		
012	Rep. Walker	Suggests staff include a copy of the veto message if the committee is considering legislation similar to any that was vetoed in a previous session.
036	Brian Boe	Representing the Oregon Grocery Industry Association. Testifies in support of HB 2007 and the proposed amendments.
063	Rep. Monnes-Anderson	Asks what specific problems have prompted the pursuit of this bill.
070	Boe	Responds that there have been some isolated incidents where there has been targeting of specific establishments.
079	Rep. Monnes-Anderson	Questions why OLCC would continue to target an establishment if it were compliant.
086	Boe	Responds that this is one of the aspects they’re seeking to clarify and address in the bill.
099	Rep. Bates	Asks if the bill would exclude an establishment that had gotten some complaints about selling alcohol to minors.
101	Boe	Responds that this is the one aspect in which OLCC and local law enforcement would have a free hand under a complaint driven activity or observed behavior.
108	Rep. Walker	Asks why the Governor vetoed SB 115 (1999).
109	Boe	Responds that there were some concerns with ambiguous language in SB 115 and that there were some unrelated items attached to it.
124	Rep. Monnes-Anderson	Asks why there needs to be coordination between OLCC’s activities and law enforcement.
132	Boe	Responds that this is one of the areas they are seeking to clarify.
139	Rep. Garrard	Asks why they don’t just let local law enforcement conduct stings and prohibit the OLCC from being involved.
143	Boe	Responds that historically enforcement has been part of OLCC’s mission.
155	Bryan Steed	Liquor License Investigations, Portland Police Bureau. Submits written testimony ( <b>EXHIBIT B</b> ) and testifies in opposition to HB 2007.
193	Rep. Garrard	Asks if the Portland Police Bureau would have a more effective operation if the OLCC were not involved.
202	Steed	Responds that eliminating OLCC from the program would have no effect on the way Portland Police Bureau does their stings.
211	Rep. Garrard	Asks for further explanation of OLCC’s involvement prior to any kind of criminal action taking place.
215	Steed	Explains that they are checking for compliance with various establishments. States that they don’t have to involve OLCC inspectors, but it has been a courtesy.
223	Erickson	Submits written testimony ( <b>EXHIBIT C</b> ) and testifies on HB 2007.
260	James Miller	Statewide Compliance Team Head, Oregon Liquor Control Commission. Gives verbal testimony on HB 2007. Outlines how sting operations are conducted.
324	Rep. Krummel	Asks for clarification that a decoy will say no if the person in attendance asks them if they are 21.
344	Miller	Responds that the decoy will either say no or they will make no answer.

349	Rep. Bates	Questions the effectiveness of the decoy program.
356	Erickson	States that research shows that regular checks are effective.
374	Rep. Monnes-Anderson	Asks what happens if an establishment is in violation.
380	Miller	Responds that if it is at a grocery store, the clerk will be cited, and that if it is on-premise establishment, the situation will be handled administratively.
394	Rep. Monnes-Anderson	Asks what is the amount of a fine.
398	Miller	Responds that the amount depends on the situation.
405	Chair Witt	Closes the public hearing on HB 2007 and opens a public hearing on HB 3192.

**HB 3192 PUBLIC HEARING**

426 Rep. Jeff Merkley

House District 16. Testifies in support of HB 3192.

**TAPE 78, B**

053 Rep. Garrard

Asks why the line couldn't be inserted in the next billboard commercial instead of making it a disclaimer on every billboard in the state.

058 Rep. Merkley

States that perhaps the disclaimer language was used incorrectly. Responds that the bill makes the language part of the advertisement.

060 Rep. Devlin

Comments on his concerns with the bill.

087 Rep. Merkley

Agrees with Rep. Devlin's comments regarding the use of the term "lottery games" versus the term "lottery".

090 Rep. Krummel

Asks Rep. Merkley if he feels the current language in statute is not strong enough.

093 Rep. Merkley

Responds affirmatively.

099 Rep. Krummel

Asks Rep. Merkley how he would define "billboard".

100 Rep. Merkley

Responds that "billboard" is defined elsewhere in law.

106 Rep. Knopp

Asks if there is any evidence that these warnings keep someone from playing the lottery.

121 Rep. Merkley

Responds that the impact may not be significant, but it is worth the effort.

149 Rep. Monnes-Anderson

States her support for the bill. Asks Rep. Merkley if he knows of any studies where warnings have been effective.

167 Rep. Merkley

Responds that he does not know of any studies that have shown that warnings have a profound impact.

190 Chris Lyons

Director, Oregon Lottery. Submits written testimony (**EXHIBIT D**) and testifies in opposition to HB 3192.

280 Rep. Devlin

Questions whether varying the message of a disclaimer is more effective than putting the same message on over and over.

299 Lyons

Responds that they did not ask this specific question in their analysis.

308 Rep. Devlin

Questions the effectiveness of lottery advertising.

316 Lyons

States that they are required by law to put the odds on tickets and advertising.

349 Rep. Krummel

Asks how far back does the Lottery keep records of winners.

350 David Hooper

Pubic Affairs Manager, Oregon Lottery. Responds that their records go back to the first day the lottery went into effect.

382 Chair Witt

Closes the public hearing on HB 3192 and adjourns the meeting at 5:40 p.m.

Submitted By,

Reviewed By,

Renee' Lunsford,  
Committee Assistant

Daniel Clem,  
Committee Administrator

Transcribed By,

Stephen Kosiewicz

**EXHIBIT SUMMARY**

**A – HB 3436, written testimony, Charlie Beck, 2 pp.**

**B – HB 2007, written testimony, Bryan Steed, 2 pp.**

**C – HB 2007, written testimony, Pamela Erickson, 5 pp.**

**D – HB 3192, written testimony, Chris Lyons, 8 pp.**