

HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

April 25, 2001
3:15 PM

Hearing Room 50
Tapes 127 - 128

MEMBERS PRESENT: Rep. Bill Witt, Chair
Rep. Betsy Johnson, 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

MEMBER EXCUSED: Rep. Tim Knopp, Vice-Chair

STAFF PRESENT: Dan Clem, Administrator
Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: HB 3782 Public Hearing
HB 3783 Public Hearing and Work Session
HB 2966 Public Hearing
HB 2764 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 127, A 003	Chair Witt	Calls the meeting to order at 3:44 p.m. Opens a work session on HB 3782
<u>HB 3782 PUBLIC HEARING</u> 010	Jim Gardner	National Car Rental Companies. Testifies that the car dealers are currently involved in a work group with representatives from the City of Portland to work out a mutually acceptable solution to the problem. Requests the opportunity to continue working on compromise language and to bring the result back at a later meeting.
019	Chair Witt	Closes the public hearing on HB 3782. Explains the schedule for the remainder of the meeting and indicates that there will be no hearings on HB 3679, HB 3736, or HJR 55. Opens a public hearing on HB 3783.
<u>HB 3783 PUBLIC HEARING</u> 034	Monty King	Oregon Independent Auto Dealers Association (OIADA). Testifies in support of HB 3783 (EXHIBIT A). States that auto dealers currently must pay off wholesale vehicles 15 days after they are acquired. Explains that the bill passed which created that effect, HB 3729 (1999), was designed only to apply to vehicles taken in trade or purchased from consumers. States that HB 3783 corrects this oversight. Mentions that the bill has no opposition

070	Chair Witt	Closes the public hearing and opens a work session on HB 3783.
<u>HB 3783 WORK SESSION</u>		
072	Rep. Garrard	MOTION: Moves HB 3783 to the floor with a DO PASS recommendation.
077	Rep. Monnes-Anderson	Wonders whether the Division of Motor Vehicles (DMV) has taken a position on the bill.
083	Rep. Devlin	Asks Mr. King if there has been any discussion with DMV regarding the measure.
086	King	Replies that DMV has been extensively involved with the bill. Explains that the goal of the 1999 legislation was to protect consumer rights, while this measure addresses sales of cars between dealers.
110	Rep. Devlin	Asks whether DMV supports the bill.
112	King	Clarifies that DMV does not oppose the bill, nor does the Department of Justice (DOJ).
128		VOTE: 8-0-3
	Chair Witt	EXCUSED: 3 - Carlson, Knopp, Krummel Hearing no objection, declares the motion CARRIED.
		REP. GARRARD will lead discussion on the floor.
130	Chair Witt	Closes the work session on HB 3783 and opens a public hearing on HB 2966.
<u>HB 2966 PUBLIC HEARING</u>		
133	Dan Clem	Committee Administrator. Gives a brief description of the bill. Indicates that the -1 amendments (EXHIBIT B) and -2 amendments (EXHIBIT C) have been submitted for the committee's consideration.
155	Monty King	OIADA. Testifies in support of HB 2966 (EXHIBIT D). States that the purpose of the bill is to help define who is and who is not a car dealer. Explains that owners of a piece of property sometimes allow car owners to park their cars there so that potential buyers can see them. Says these "park and sell" lots have found a loophole in Oregon's automobile dealer laws and should be regulated like other dealers. Submits the -3 amendments (EXHIBIT E) for consideration.
174	Rep. Johnson	Offers a hypothetical example where land is leased to persons for purposes of selling automobiles and asks who would be responsible for paying any fees related to the sale of automobiles.
177	King	Replies that under HB 2966 as amended by the -3 amendments it would be the land owner who is responsible and liable for dealer license fees.
184	Rep. Johnson	Wonders what level of due diligence a property owner is responsible for with regard to how the property is used by those leasing the land.
190	King	Responds that if the renter of the property is subsequently renting to others who are selling cars, then it would be the renter at fault. Maintains in the hypothetical example it is clear that someone must be considered a car dealer and licensed accordingly.
197	Rep. Johnson	Finds it worrisome that the scenario she described has not been considered previously by the proponents of the bill.
200	King	Compares renters selling cars to renters doing other illicit activities, such as growing marijuana.
212	Chair Witt	Explains that Rep. Johnson's concern is that property owners may be in violation of the measure without their knowledge

217	Rep. Johnson	Asks again what responsibility the landowner has to ensure that the rented property is not used improperly, be it growing marijuana or selling cars.
220	King	Says the fact that there is a legal document placing the legal responsibility on the renter should be sufficient to protect the landowner.
234	Rep. Bates	Asks if someone is considered to be a dealer if they sell more than four or five cars in a specific period of time.
240	King	Replies that such a person meets the definition of car dealer currently in statute. Explains that a person who sells five or more cars may need to prove whether or not they are a dealer.
253	Rep. Bates	Asks if the bill will affect this.
255	King	Replies he does not believe so. Asserts that a person who posts signs advertising cars being sold on a piece of property is clearly a dealer, however, and says there are such lots throughout the region without the proper licenses.
274	Rep. Johnson	Concludes that the -3 amendments address the issue of advertising.
294	Chair Witt	Presumes that the bill requires that a person renting property must also be advertising cars for sale before they could be considered an unlicensed dealer.
304	King	Says the matter of renters and occupants is a good indicator of where the line is in this matter, as a landowner could let someone else set up cars without themselves being considered a dealer. Adds that if the same property owner advertises renters to come in for purpose of selling cars it does make them a dealer. Says such lots are being set up in numerous places, one of the newest being Newberg.
344	Rep. Krummel	Notes that a car fair is held intermittently at Volcano Stadium in Keizer. Wonders whether such a 'swap meet' arrangement could be considered a dealership in the sense that the bill defines it.
360	King	Indicates that passage of the bill would require the owners of the stadium to either become licensed or to approach an existing dealer and arrange to have the stadium listed as a supplemental location. Says the case Rep. Krummel referred to is a good example of what this bill is designed to address.
383	Rep. Krummel	Opines that a 'car dealer' is someone who actually tries to sell cars to potential buyers. Asks why someone who rents their land to people who then try to sell cars there makes the landowner a car dealer, as opposed to the person actually selling the car.
TAPE 128, A		
002	King	Asserts that anyone in the business of bringing car buyers and sellers together is a car dealer. Says many are making money at it and should be regulated and insured to protect consumers States that the law defines anyone acting as any type of agent for sale or for display for sale as a dealer. Remarks that many of the big park and sell lots keep cars on site for months and even provide the necessary paperwork for completion of the sale.
038	Rep. Walker	Asks if a similar bill was moved through the House earlier in session.
044	King	Replies affirmatively, adding that the bill is now in the Senate Transportation and General Government Committee.
048	Chair Witt	Asks why the time period was changed from 30 days to 10 days.
050	King	Replies that 10 days was deemed sufficient to warrant the need

		for licensure.
060	Rep. Johnson	Asks how the measure will be enforced.
065	Clem	Indicates that the fiscal analysis of the original bill indicated a cost of \$170,000, with an estimated revenue increase of \$57,000. Notes that the bill requests an additional 2 persons and 1.5 FTE.
078	King	Indicates that DMV is already supposed to look for those who sell cars on streets or in lots not belonging to them, also called “curbers.” Says there is no reason to expect more workers, as there are already people surveying for curbers. Says that if the lots in question are licensed and paying fees it will be easier to monitor them.
090	Rep. Johnson	Asks who submitted the three sets of amendments.
093	King	Explains he submitted the –3 amendments to combine the previous amendments.
110	Rep. Johnson	Wonders what happens if lot owners refuse to comply. Says it could create additional regulatory burden on DMV. Expresses a desire to have DMV testify as to the agency’s perspective.
117	King	Notes that the fiscal impact should be reduced with the advertising limitation.
123	Rep. Johnson	Replies it will still be a significant regulatory burden.
128	King	Agrees but says dealer fees are designed to pay for just that sort of regulation.
133	Rep. Garrard	Wonders whether the bill is the first step toward requiring licensure if a landowner wants to allow sale of anything on his or her property, be it Christmas trees, t-shirts, or other items.
143	King	Concedes that the bill may create a precedent, but says society has decided that cars are critical to the economy, meaning that there is a need for cars to be sold in an official capacity. Mentions that the sale of cars is governed almost as tightly as the sale of houses. Reiterates that a dealer is someone who brings buyers and sellers together in search of compensation. Submits this is not a property issue but a car sale issue.
172	Kelly Taylor	Oregon Department of Transportation (ODOT). States that the bill in either original or amended form has some issues that need to be resolved. Asserts that the bill regulates property owners. Submits that to try and prove that compensation was received by a landowner can be problematic.
202	Chair Witt	Asks if fines on curbers were increased this session. Asks how much revenue the increase is projected to raise.
206	Taylor	Replies it is difficult to estimate, as fines often go unpaid. Clarifies that ODOT has no position on the bill. Mentions that the fiscal analysis was determined in part with information provided by ODOT.
217	Rep. Krummel	Uses Volcano Stadium as an example and asks whether current statute is violated by the Saturday car sales at that location. Asks whether the landowner should be considered an illegal dealer, either currently or under the purview of the bill.
233	Taylor	Answers that currently property owners are not involved, while the bill stipulates they would be involved if they receive compensation of some sort from the sale.
250	Rep. Krummel	Asks if landowners are currently in violation of the law if they advertise for the sale of cars on their property by others.
266	Taylor	Replies that currently the landowner would not be violating current law but would be in violation if the bill passes.

290	Chair Witt	Closes the public hearing on HB 2966 and opens a work session on HB 2764.
<u>HB 2764 WORK SESSION</u>		
292	Dan Clem	Committee Administrator. Gives a brief description of the bill. Mentions that the members have been provided with copies of the –3 amendments (EXHIBIT F) for consideration. Notes that an unofficial fiscal analysis indicates a fiscal impact of approximately \$160,000 to pay for two positions, but that this cost is offset by added revenues of approximately \$200,000.
355	John McCulley	Oregon Association of Mortgage Brokers (OAMB). Testifies in support of HB 2764. Describes the –3 amendments.
TAPE 127, B		
008	McCulley	Continues reviewing the –3 amendments and the changes they make to the bill.
060	McCulley	Continues reviewing the –3 amendments. Mentions that the bill will take effect January 1, 2002.
077	Rep. Bates	Recalls a letter that indicated that the Division of Finance and Corporate Securities of the Department of Consumer and Business Services (DCBS) will support the bill with only minor changes.
090	McCulley	Mentions that DCBS has taken a position on the bill.
096	Jim Krueger	Program Manager, Division of Finance and Corporate Securities, DCBS.
101	Rep. Bates	Asks whether DCBS has taken a position on the measure.
104	Krueger	Replies that the bill as amended by the –3 amendments is one way to address the problem and says the amendments make the bill easier to administer.
115	Rep. Bates	Acknowledges that the bill addresses the problem but asks whether there is a better way to address the problem.
120	Krueger	Replies that he would need more time to make such a determination.
124	Rep. Johnson	Comments that the amendments make the bill easier to administer and requests that DCBS state whether they have a position on the bill.
127	Krueger	Answers that he is not in a position to state a preference for or against the measure at this time.
131	Rep. Carlson	Mentions that she has been inundated with e-mails and calls from the industry in support of the measure. Says it is difficult to separate brokers and bankers and wonders whether there is a way to keep from bringing both under the auspices of the bill.
145	McCulley	Replies that there is no clear distinction between bankers and brokers, as both are involved in brokerage activities.
153	Krueger	Concedes that it is difficult to distinguish one from another by how the agency has developed over the years. Says the two can be differentiated based upon percentage of activity spent in each area.
164	Rep. Carlson	Notes several references to DCBS being required to define certain parameters. Asks what process would be used to come up with standards by which applications will be judged.
178	Krueger	Says that standards already in place will be very similar to those that need to be defined. Mentions that securities law has some influence in the matter, as do other statutes on the books.
194	Rep. Carlson	Asks whether the Administrative Procedures Act dictates the process by which a denial could be appealed.

196	Krueger	Replies affirmatively
198	Rep. Monnes-Anderson	Asks how many loan transactions there are in the state and how many complaints the department receives.
204	Krueger	Estimates the number of loan transactions to be in the hundreds of thousands and offers to provide the numbers of complaints in the future.
223	Rep. Monnes-Anderson	Opines that a large and cumbersome registration system is being proposed to deal with a very small percentage of transactions.
230	Krueger	Comments that there would be a need for substantial programming, necessitating additional personnel.
239	McCulley	Indicates that there are approximately 70,000 transactions, with approximately 300 complaints.
251	Chair Witt	Notes that preliminary fiscal analysis indicates the measure requires two FTE, but says licensing fees would cover the fiscal impact.
258	McCulley	Provides specific numbers of mortgages and complaints: <ul style="list-style-type: none"> • 69,669 mortgages • 180 complaints Mentions that a single complaint could involve multiple complaints.
271	Rep. Garrard	Agrees that there is a problem and says his constituents believe this is bill is not the best solution. Says a better solution might be found in time. States he would like to see the bill delayed in order to give all parties more of an opportunity to work on the issue.
299	Rep. Devlin	Comments that a bill is typically required to cover administrative costs for new boards until registration fees accrue. Asks whether the same is anticipated for HB 2764.
313	Krueger	Replies that the mortgage lender program has a healthy fund balance, due to the large number of licensees, which could cover the administrative costs. Says startup fees will not be necessary.
336	Rep. Monnes-Anderson	Recalls that Mr. McCulley had said both sides agreed on background check and registration fees. Expresses a desire for compromise language to maintain the pieces that all parties agree on while shoring up the areas of concern.
350	McCulley	Concurs.
363	Chair Witt	Asks how many states have loan originator licenses or registration.
369	McCulley	Lists the nine other states with loan originator license or registration requirements: Florida, Hawaii, Indiana, Louisiana, Minnesota, Nevada, New Jersey, Texas, and Minnesota. Says they are a relatively new phenomenon.
376	Chair Witt	Asks if the programs were developed in response to a recognized problem in the industry.
380	Krueger	Remarks that bad actors typically take their shady business practices along with them until the system catches up.
400	Chair Witt	Concludes that this is a measure to deal with unethical business practices.
405	McCulley	Replies affirmatively.
TAPE 128, B 003	Rep. Krummel	Asks whether the –3 amendments replace the entire bill and, if so, whether a supervisor is required to be an experienced person.

010	McCulley	Provides the statutory reference of a person with experience as someone who has three years of experience in the last five years.
016	Rep. Krummel	Asks where the training course is offered.
019	McCulley	Answers that a number of private firms provide the training.
024	Rep. Krummel	Asks whether the department could provide the training.
025	McCulley	Acknowledges that it could but says there are already entities that do.
030	Rep. Krummel	Notes that the examinations must be approved by a provider and requests clarification whether the reference is to providers of training programs.
031	McCulley	Answers affirmatively and clarifies that providers need to be approved and certified by DCBS.
034	Rep. Krummel	Asks why there are exemptions from registration requirements.
039	McCulley	Says that the language referred to by Rep. Krummel specifies that once an entry exam is taken the loan originator has six months to complete the training program, during which time they may continue to originate loans.
056	Rep. Devlin	Concludes that the committee members would like additional time to consider the issue.
076	Rep. Devlin	MOTION: Moves HB 2764 BE SCHEDULED for work session on May 7, 2001.
081		VOTE: 10-0-1
		EXCUSED: 1 - Knopp
	Chair	Hearing no objection, declares the motion CARRIED.
084	Chair Witt	Adjourns the meeting at 5:11 p.m.

Submitted By,

Reviewed By,

Patrick Brennan,
Committee Assistant

Dan Clem,
Committee Administrator

EXHIBIT SUMMARY

- A – HB 3783, testimony, Monty King, 1 p.**
- B – HB 2966, -1 amendments, staff, 1 p.**
- C – HB 2966, -2 amendments, staff, 2 pp.**
- D – HB 2966, testimony, Monty King, 3 pp.**
- E – HB 2966, -3 amendments, Monty King, 3 pp.**
- F – HB 2764, 03 amendments, staff, 17 pp.**