

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

January 31, 2001
1:00 PM

Hearing Room B
Tapes 17 - 18

MEMBERS PRESENT: Sen. Bill Fisher, Chair
Sen. Margaret Carter, Vice-Chair
Sen. Gary George
Sen. Frank Shields
Sen. Ken Messerle

STAFF PRESENT: Rick Berkobien, Administrator
Andrew Morris, Committee Assistant

MEASURE/ISSUES HEARD: SB 178 Public Hearing
SB 392 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 17, A		
004	Chair Fisher	Calls meeting to order at 1:16 p.m. and opens a public hearing on SB 178.
<u>SB 178 PUBLIC HEARING</u>		
014	Rick Berkobien	Administrator. Explains SB 178 to the committee.
040	Steven Morasch	Oregon Food Bank. Testifies in support of SB 178. Comments on food that is being wasted. Relates a personal experience. Discusses charitable salvage. Explains various types of insurance in the food industry.
128	Sen. Carter	Asks if the insurance companies would be liable for food that would be donated.
146	Morasch	Responds the liable party would be the party who the food belongs to.
154	Sharon Thornberry	State Coordinator, Oregon Food Bank. Testifies in support of SB 178. States the food bank supports the bill, but language revisions need to take place. Comments on tax credits for crops that receive tax credit for donations to charitable institutions.
193	Sen. Messerle	States support for utilizing available food. Comments on concern about creating mandates.
206	Chair Fisher	Comments on the crop tax credit legislation. Discusses savings for insurance companies and cooperative efforts.
242	Morasch	Proposes some changes in the language. Explains the insurance claim process.
290	Chair Fisher	Comments on the positive aspects of the proposed bill.
305	Morasch	States willingness to work with involved parties.
310	Sen. George	Comments on bureaucratic requirements.
328	Lana Butterfield	Representing Safeco Insurance Company. Presents testimony in opposition to SB 178 (EXHIBIT A). States that Safeco believes in the spirit of the bill, but the bill could restrict current goodwill practices. Comments on liability issues. States willingness to work with the Oregon Food Bank.

410	Chair Fisher	Comments on liability. Relates a possible scenario.
TAPE 18, A		
000	Chair Fisher	Continues relating possible scenarios.
021	Sen. Carter	Asks if ORS 416.520 means that food can be donated.
031	Butterfield	Responds that the food could be donated to the grocer who in turn could donate the food to a charitable organization.
040	Sen. Carter	Asks if the bill is necessary.
044	Butterfield	Responds no.
049	Sen. Messerle	Asks if the insurance company owns the food after a claim is settled.
053	Butterfield	Responds affirmatively. States that it is possible to abandon the salvage.
062	Sen. Shields	Comments on salvaged food.
079	Buttersfield	Explains that Safeco does a lot of donations.
093	Sen. Shields	Asks what the bill accomplishes.
097	Thornberry	Responds by explaining why the bill was brought forward.
118	Morasch	Explains the importance of charitable salvage. Comments on liability issues.
150	Sen. Shields	Asks if there is a way to work the bill to exclude liability.
166	Buttersfield	Reiterates that the Safeco is willing to work on the bill.
175	Chair Fisher	Introduces a letter from the insurance commission (EXHIBIT B).
188	Sen. Messerle	States support for the concept. Points out that it might be better to promote a cooperative effort instead of making a new mandate.
204	Buttersfield	Proposes a cooperative effort.
212	Sen. George	Comments on the liability issue.
240	Chair Fisher	Discusses food safety.
261	Sen. Carter	Comments on including the Good Samaritan Law in the bill. Discusses the handling of damaged food.
320	Chair Fisher	Asks the involved parties to work out amendments.
350	Thornberry	States willingness to work with involved parties.
364	Chair Fisher	Asks Sen. Shields to work with the issue.
371	Chair Fisher	Closes the public hearing on SB 178 and opens a public hearing on SB 392.
<u>SB 392 PUBLIC HEARING</u>		
392	Berkobien	Explains SB 392 to the committee.
TAPE 17, B		
013	Hersh Crawford	Administrator. Office of Medical Assistance Programs (OMAP). Testifies in support of SB 392 (EXHIBIT C). States the goal of the bill is to allow the state to increase the ability to recover costs for the Medicaid program. Comments on third party payees. Explains current statute. Discusses cause of action against attorneys.
050	Chair Fisher	Asks how an attorney would know if their client is on the Oregon Health Plan or other assistance.
053	Crawford	Responds the attorney would have to ask the client.
055	Chair Fisher	Asks what would happen if the client was not truthful about their status.
057	Crawford	Responds that would mitigate the cause of action against the attorney.
060	Chair Fisher	Asks if the attorney would need documented materials showing

		the client does not receive Medicaid services.
063	Crawford	Responds that OMAP would be reasonable in dealing with each case independently.
066	Chair Fisher	Asks if a lot the cases slip past OMAP.
068	Crawford	Responds that OMAP is notified about half of the time.
073	Chair Fisher	Asks if clients know they are supposed to report to OMAP.
081	Crawford	Responds that when people sign up for a public assistance program, they are given information on their rights and responsibilities.
090	Chair Fisher	Asks if OMAP is aware of any cases of attorneys counseling clients to withhold information.
106	Crawford	Responds he is not aware of any specific cases. Comments on cause of action.
115	Chair Fisher	Asks if the attorneys go through a court process.
119	Crawford	Responds he is uncertain. Comments on the situation that would require an attorney's notice.
130	Chair Fisher	Asks about the recovery rate.
133	Crawford	Responds that about 50 percent of clients currently report to OMAP and of that about 70 percent of liens are recovered.
151	Sen. Carter	Comments on privacy rights.
168	Crawford	States that other states already have this proposal in their law.
184	Sen. Messerle	Asks about the confidentiality issue.
191	Crawford	Responds it would not apply in this context. Discusses when confidentiality applies.
212	Sen. George	Asks how an attorney would know a client's status.
217	Crawford	Responds there is not a guarantee.
234	Jim Anderson	Oregon Medical Association (OMA). Presents testimony on SB 392 on behalf of Scott Gallant (EXHIBIT D). States the bill does not accomplish its goal. Reads suggested language from (EXHIBIT D) that could be used to accomplish the intent.
302	Allan Tresidder	Oregon Trial Lawyers Association. Testifies on SB 392. Comments on concerns with SB 392. Discusses cause of action. Recommends removing lines 12 and 13 of the bill.
372	Crawford	Comments on interactions between the client and attorney. States it is important to know who is paying the injured party's healthcare costs.
397	Sen. Carter	Asks about liability.
404	Crawford	Responds that he is willing to work with parties involved.
415	Sen. Carter	Asks the involved parties to work together.
428	Sen. Carter	Adjourns the committee at 2:40 p.m.

Submitted By,

Reviewed By,

Andrew Morris,
Committee Assistant

Rick Berkobien,
Administrator

EXHIBIT SUMMARY

A – SB 178, Written testimony, Lana Butterfied, 1 p.

B – SB 178, Letter from the Deputy Insurance Commissioner, 1 p.

C – SB 392, Written testimony, Hersh Crawford, 1 p.

D – SB 392, Written testimony from the OMA, 2 pp.