

## SENATE COMMITTEE ON JUDICIARY

January 17, 2001 Hearing Room 343

1:00 p.m. Tapes 5 - 6

**MEMBERS PRESENT:**        **Sen. Minnis, Chair**  
                                  **Sen. Courtney, Vice-Chair**  
                                  **Sen. R. Beyer**  
                                  **Sen. Burdick**  
                                  **Sen. Duncan**  
                                  **Sen. Harper**  
                                  **Sen. Metsger**

**STAFF PRESENT:**         **Marilyn Odell, Counsel**  
                                  **Craig Prins, Counsel**  
                                  **Annola DeJong, Committee Assistant**

**MEASURE/ISSUES HEARD:**        **SB 171 Public Hearing and Work Session**  
  **SB 132 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>
<b>TAPE 5, A</b>		
004	Chair Minnis	Calls the meeting to order at 1:00 and opens a public hearing on SB 171.
<b><u>SB 171 – PUBLIC HEARING</u></b>		
015	<b>Tom Wrosch</b>	<b>Corporation Division, Secretary of State Office.</b> Submits testimony in support of SB 171 relating to secured transactions ( <b>EXHIBIT A</b> ).
057	<b>Counsel Odell</b>	Addresses her memo summarizing the major provisions of SB 171 that allow the filing by any medium ( <b>EXHIBIT B</b> ).
064	Chair Minnis	Introduces fiscal impact statement ( <b>EXHIBIT C</b> ).
069	Roush	Clarifies that fiscal impact statement was not to be attached to SB 171. Says that the Secretary of State will be using it in their budget request
075	Chair Minnis	Agrees with clarification.
079	Sen. Beyer	Asks about impact statement being sent to Ways & Means so they “can know about it for their budget?”
082	Chair Minnis	Responds that he does not think so. If the co-chairs “feel a compelling need to bring it down” they will request it.
097	Chair Minnis	Confirms with committee that including Title Loan Regulation in SB 171 would cause problems. Clarifies that “there are no provisions in this particular bill dealing with agricultural liens.” Defers to Counsel Odell about municipal bonds.
110	Counsel Odell	Notes that there are no changes to municipal bonds in SB 171.
129	<b>Ken Sherman Jr.</b>	<b>Counsel, Oregon Bankers Association.</b>

		Provides committee with updated copy the Official Comments on uniform state laws so they may be part of the record <b>(EXHIBIT D)</b> .
136	Chair Minnis	Inquires if document was used for discussions by various interest groups.
139	Sherman	Confirms it was.
	<b><u>SB 171 - WORK SESSION</u></b>	
142	Sen. Beyer	<b>MOTION: Moves SB 171 to the floor with a DO PASS recommendation.</b>
142		<b>VOTE: 7-0</b>
142	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. COURTNEY will lead discussion on the floor.</b>
155	Chair Minnis	Closes work session on SB 171 and opens public hearing on SB 132.
	<b><u>SB 132 – PUBLIC HEARING</u></b>	
177	Kevin Mannix	<b>Attorney, Salem, OR.</b> Discusses his involvement in implementing SB 132 relating to crime of fleeing or attempting to elude peace officer, and how this bill will assist in giving Oregon one of the best public safety systems in the nation. Explains key features of the bill.
295	Sen. Courtney	Asks if a person who is outside a vehicle can be “charged with knowingly fleeing or attempts to elude.”
314	Mannix	Points out that there is a separate statute that covers “failure to obey a lawful order, or interfering with a police officer.” States that SB 132 deals with using a motor vehicle to try and escape.
322	Sen. Courtney	Inquires if there is a distinction made between marked or unmarked police cars.
338	Mannix	Replies that there is no distinction in the current law.
354	Sen. Courtney	Questions certain terminology, i.e. knowingly, attempts to elude, etc., as being too vague.
378	Mannix	Indicates that the vague language can be corrected.
423	Sen. Beyer	Asks why “police officer” is changed to “peace officer” throughout SB 132.
427	Mannix	Explains that these changes were made by Legislative Counsel, possibly in the attempt to “bring in more consistent language for the criminal code.” Notes that he will check on it.
447	Counsel Prins	Voices the concern about where SB 132 would fit in, “Would it be in the vehicle code or criminal code” and that it “expressly applies to public highways.”
481	Sen Burdick	Asks to verify that her understanding of forfeiting a vehicle on page 3 is accurate.
493	Mannix	Concurs that the Senator is correct.
500	Sen. Duncan	Expresses concern about stopping at night-how could a motorist acknowledge the officer and still proceed to a safe place to stop?
	<b>TAPE 6, A</b>	
048	Mannix	States that the “affirmative defense” deals with the unmarked vehicle. Comments that more clarification is needed in the body of the statute regarding lighting and siren.
080	Lois Cole	<b>Criminal Justice Commission (CJC).</b>

		Submits testimony and notes that the CJC “takes no position” on SB 132. <b>(EXHIBIT E)</b> .
124	Chair Minnis	Asks about the possibility that people whom “might be charged with other crimes” could end up being counted more than once in the calculation process.
128	Cole	Answers that the CJC has to take that into consideration.
134	Chair Minnis	Asks if the commission looks at sentencing practices in relation to their fiscal estimate.
140	Cole	Responds that they do.
146	Chair Minnis	Asks about the process of refining the estimate. Wonders if there is a formula?
149	Cole	Answers that there is “never a set formula”.
160	<b>Lt. Ethan Wilson</b>	<b>Assistant Director of Patrol Services Division, Oregon State Police (OSP).</b>
		Submits testimony and testifies in support of SB 132 <b>(EXHIBIT F)</b> .
201	Sen. Harper	Asks why there are two different sanctions “whether you’re a passenger or a driver?”
205	Wilson	Responds that a person on foot is not likely to be in possession of a “deadly or dangerous weapon” and that “a vehicle by definition, particularly in hands of somebody who is engaged in reckless operation...makes that a dangerous or deadly weapon.”
214	<b>Russ Spencer</b>	<b>Oregon State Sheriff’s Association (OSSA).</b>
		Provides testimony in support of the section on affirmative defense. Notes that the OSSA has not taken a formal position on SB 132 yet.
238	Sen. Burdick	Asks how a motorist might signal to an officer, then proceed on to a safe place before stopping.
271	Spencer	Suggests turning on the emergency blinkers, or pointing to the side of the road.
285	<b>Ingrid Swenson</b>	<b>Oregon Criminal Defense Lawyers Association.</b>
		Testifies in opposition of SB 132 citing three concerns: 1. The increase in the presumptive sentence; 2. Passenger liability; 3. Vehicle forfeiture.
364	Chair Minnis	Asks for explanation on the difference between “walking away” and “fleeing”.
367	Swenson	Notes that “under the bill” the terms describe identical conduct i.e.: leaving, departing.
389	Mannix	Spoke to representative from Oregon Department of Transportation, and they have no objection to this bill.
400	Sen. Burdick	Asks for clarification on how a passenger could be held liable.
432	Chair Minnis	Suggests a situation in which a passenger might meet the description of a suspect and “initiate a traffic stop based on the description”. Additionally, failure to wear a seat belt applies to passengers and drivers alike, as do open container violations.
459	Mannix	Refers to the “zone of control” and that persons who are in a vehicle that is stopped “don’t get to just walk away.”
503	Sen. Metsger	Inquires about the presumptive sentence for the passenger.
511	Mannix	Replies that it is a Class A misdemeanor for which there are no sentencing guidelines.
528	<b>Brian DeLashmutt</b>	<b>Oregon Council Police Associations.</b>
		Confirms their support for SB 132.

Submitted By,

Reviewed By,

Annola DeJong  
Administrative Support

Craig Prins  
Counsel

**EXHIBIT SUMMARY**

**A – SB 171, Secretary of State’s Corporation Division, written testimony, submitted by Tom Wrosch, dated 1/17/01, 2 pp.**

**B – SB 171, Memo, submitted by staff, dated 1/17/01, 3 pp.**

**C – SB 171, Fiscal Impact Statement, submitted by staff, dated 1/17/01, 1 p.**

**D – SB 171, Oregon Bankers Association, Uniform Commercial Code, submitted by Ken Sherman, Jr., 420 pp.**

**E – SB 132, Criminal Justice Commission, written testimony, submitted by Lois Cole, dated 1/12/01, 2 pp.**

**F – SB 132, Oregon State Police, written testimony, submitted by Lt. Ethan Wilson, dated 1/17/01, 3 pp.**