

SENATE COMMITTEE ON JUDICIARY

June 12, 2001 Hearing Room 343
8:00 a.m. Tapes 162 – 163

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Peter Courtney, Vice-Chair
 Sen. Roger Beyer
 Sen. Ginny Burdick
 Sen. Verne Duncan
 Sen. Steve Harper
 Sen. Rick Metsger

STAFF PRESENT: **Marilyn Odell, Counsel**
 Craig Prins, Counsel
 Andrea Shartel, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2944B Reconsideration and Work Session**
 HB 2007A Public Hearing and Work Session
 HB 2424A Public Hearing and Work Session
 HB 3642A Public Hearing and Work Session
 HB 2503A Work Session
 HB 2949 Work Session
 HB 3461 Public Hearing
 HB 2560A Public Hearing and Work Session
 HB 2686A Public Hearing and Work Session
 HB 3857A Public Hearing and Work Session
 HB 2394A Public Hearing
 HB 2942A Public Hearing and Work Session
 HB 2429A Work Session
 HB 3931A 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.

| TAPE/# | Speaker | Comments |
|---|---------------------|--|
| TAPE 162, A | | |
| 004 | Vice Chair Courtney | Calls the meeting to order at 8:10 a.m. and opens a work session on HB 2944B for reconsideration of the measure. |
| <u>HB 2944B RECONSIDERATION AND WORK SESSION</u> | | |
| 006 | Sen. Metsger | MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote by which HB 2944B was passed to the floor with a DO PASS recommendation. |
| | | VOTE: 5-0-2 |
| 008 | Vice Chair Courtney | EXCUSED: 2 - Beyer, Duncan Hearing no objection, declares the motion CARRIED. |

009 Sen. Metsger **MOTION: Moves to RECONSIDER the vote by which HB 2944B was passed to the floor with a DO PASS recommendation.**
VOTE: 5-0-2
EXCUSED: 2 - Beyer, Duncan

011 Vice Chair Courtney **Hearing no objection, declares the motion CARRIED.**

016 Kevin Campbell **Oregon Association Chiefs of Police**
Testifies in support of HB 2944 that directs the Board on Public Safety Standards and Training to establish four policy committees for specific disciplines governed by board, and introduces the -B10 amendments (**EXHIBIT A**).

038 Vice Chair Courtney Asks about the -B11 and -B12 amendments (**EXHIBITS B and C**).

039 Campbell Explains the amendments and says that the -B11 amendments created a large fiscal impact thus the -B12 amendments were written.

055 Vice Chair Courtney **MOTION: Moves to ADOPT HB 2944-B10 amendments dated 5/31/01.**
VOTE: 5-0-2
EXCUSED: 2 - Beyer, Duncan

057 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

058 Vice Chair Courtney **MOTION: Moves to ADOPT HB 2944-B12 amendments dated 6/8/01.**
VOTE: 5-0-2
EXCUSED: 2 - Duncan, Beyer

060 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

061 Vice Chair Courtney **MOTION: Moves HB 2944 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 5-0-2
EXCUSED: 2 - Beyer, Duncan

065 Chair Minnis **Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.**

070 Chair Minnis Closes the work session on HB 2944A and opens a public hearing on HB 2007A.

HB 2007A PUBLIC HEARING

071 Brian Boe **Oregon Grocery Industry Association**
Testifies in support of HB 2007A that directs Oregon Liquor Control Commission to establish uniform standards for minor decoy operations used to investigate unlawful sales of alcoholic beverages to minors. Introduces the -A6 amendments (**EXHIBIT D**).

111 Chair Minnis Closes the public hearing on HB 2007A and opens a work session.

HB 2007A WORK SESSION

113 Vice Chair Courtney **MOTION: Moves to ADOPT HB 2007-A6 amendments dated 6/11/01.**
VOTE: 6-0-1
EXCUSED: 1 - Duncan

115 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

116 Vice Chair
Courtney **MOTION: Moves HB 2007 to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 6-0-1

EXCUSED: 1 – Duncan

118 Chair Minnis **Hearing no objection, declares the motion CARRIED. SEN. HARPER will lead discussion on the floor.**

120 Chair Minnis Closes the work session on HB 2007A and opens a public hearing on HB 2424A.

HB 2424A PUBLIC HEARING

128 Bradd Swank

State Court Administrator’s Office

Submits testimony and testifies in support of HB 2424A that allows Chief Justice of the Supreme Court to make rules for use of electronic citations (**EXHIBIT E**). Says that the –A4 amendments are not needed (**EXHIBIT F**).

154 Chair Minnis Closes the public hearing on HB 2424A and opens a work session.

HB 2424A WORK SESSION

157 Vice Chair
Courtney

MOTION: Moves to ADOPT HB 2424-A4 amendments dated 6/11/01.

VOTE: 5-0-2

EXCUSED: 2 – Duncan, Beyer

160 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

162 Vice Chair
Courtney

MOTION: Moves HB 2424 to the floor with a DO PASS AS AMENDED recommendation.

164 Sen. Beyer Asks for clarification of how parking tickets are going to be administered.

168 Swank Explains the technology.

VOTE: 6-0-1

EXCUSED: 1 – Duncan

194 Chair Minnis **Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.**

200 Chair Minnis Closes the work session on HB 2424A and opens a public hearing on HB 3642A.

HB 3642A PUBLIC HEARING

209 Daina Vitolins

Oregon Department of Justice

Testifies in support of HB 3642A that revises criminal forfeiture provisions.

243 Chair Minnis Closes the public hearing on HB 3642A and opens a work session.

HB 3642A WORK SESSION

245 Vice Chair
Courtney

MOTION: Moves HB 3642A to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 – Duncan

251 Chair Minnis **Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.**

256 Chair Minnis Closes the work session on HB 3642A and opens a work session

on HB 2503A that establishes mandatory conditions of parole and post-prison supervision for certain sex offenders.

HB 2503A WORK SESSION

266 Vice Chair
Courtney

MOTION: Moves HB 2503A to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 – Duncan

Hearing no objection, declares the motion CARRIED.

SEN. METSGER will lead discussion on the floor.

268 Chair Minnis

275 Chair Minnis

Closes the work session on HB 2503A and opens a work session on HB 2949 that for purposes of statutes, defines may not and shall not as equivalent expressions of absolute prohibition.

HB 2949 WORK SESSION

279 Vice Chair
Courtney

MOTION: Moves HB 2949 to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 – Duncan

Hearing no objection, declares the motion CARRIED.

SEN. DUNCAN will lead discussion on the floor.

287 Chair Minnis

292 Chair Minnis

Closes the work session on HB 2949 and opens a public hearing on HB 3461.

HB 3461 PUBLIC HEARING

318 David Cook

Clackamas County Community Corrections

Submits testimony and testifies in support of HB 3461 that deletes cap on total number of days of jail or non-jail confinement that can be imposed as custodial sanctions (EXHIBIT G). Submits testimony on behalf of David Koch (EXHIBIT H).

421 Grant Nelson

Lane County Community Corrections

Testifies in support of HB 3461. Says with this bill, it will be the offender's behavior that will drive what happens to the offender.

TAPE 163, A

029 Bill Houser

Oregon Criminal Defense Lawyers Association (OCDLA)

Testifies in opposition to HB 3461. Says the OCDLA does not like taking the cap away on sanctions.

056 Bruce Liebowitz

Liebowitz & Associates, Portland, OR

Testifies in opposition to HB 3461. States that the average person being revoked under this bill is a low-level drug offender. Says this bill would make the probation officer the judge.

123 Chair Minnis

Asks how he would modify the bill.

126 Liebowitz

Explains how he would modify the grid.

142 Chair Minnis

Closes the public hearing on HB 3461 and opens a public hearing on HB 2560A.

HB 2560A PUBLIC HEARING

150 Rep. Tom Butler

House District 60

Testifies in support of HB 2560A that requires a court to order suspension of driving privileges of person who fails to appear on charges of minor in possession of alcohol.

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| 166 | Chair Minnis | Closes the public hearing on HB 2560A and opens a work session. |
| <u>HB 2560A WORK SESSION</u> | | |
| 169 | Vice Chair Courtney | MOTION: Moves HB 2560A to the floor with a DO PASS recommendation. |
| | | VOTE: 6-0-1 |
| | | EXCUSED: 1 – Duncan |
| 171 | Chair Minnis | Hearing no objection, declares the motion CARRIED. SEN. HARPER will lead discussion on the floor. |
| 195 | Chair Minnis | Closes the work session on HB 2560A and opens a public hearing on HB 2686A. |
| <u>HB 2686A PUBLIC HEARING</u> | | |
| 203 | Jana Jarvis | Oregon Association of Realtors Testifies in support of HB 2686A that modifies incidents that are not material to real property transaction and for which failure to disclose does not give rise to cause of action against owner, owner’s agent or transferee’s agent. |
| 214 | Chair Minnis | Closes the public hearing on HB 2686A and opens a work session. |
| <u>HB 2686A WORK SESSION</u> | | |
| 215 | Vice Chair Courtney | MOTION: Moves HB 2686A to the floor with a DO PASS recommendation. |
| | | VOTE: 6-0-1 |
| | | EXCUSED: 1 – Duncan |
| 217 | Chair Minnis | Hearing no objection, declares the motion CARRIED. SEN. HARPER will lead discussion on the floor. |
| 223 | Chair Minnis | Closes the work session on HB 2686A and opens a public hearing on HB 3857A. |
| <u>HB 3857A PUBLIC HEARING</u> | | |
| 229 | Bill Houser | Testifies in opposition to HB 3857A that authorizes attorneys for public bodies to direct, provide legal advice for and participate in covert activities for purposes of enforcing laws. Says no lawyer should be advising people to be dishonest. |
| 241 | Pete Shepherd | Deputy Attorney General Testifies in support of HB 3857A. |
| 311 | Sen. Metsger | Wonders if the bill is too broad. |
| 321 | Shepherd | Responds that it is intended to be broad to cover civil and criminal enforcement. |
| 352 | Mark McDonald | Deputy District Attorney, Multnomah County |
| 378 | Brad Berry | Explains that the Gatti decision has been very problematic. Yamhill County District Attorney Testifies in support of HB 3857A. Explains the difficulty that has occurred as a result of the Supreme Court decision regarding the Gatti case. |
| 407 | Chair Minnis | Closes the public hearing on HB 3857A and opens a work session. |
| <u>HB 3857A WORK SESSION</u> | | |
| 408 | Vice Chair Courtney | MOTION: Moves HB 3857A to the floor with a DO PASS recommendation. |
| | | VOTE: 6-0-1 |

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| 412 | Chair Minnis | EXCUSED: 1 – Beyer Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor. |
| 415 | Chair Minnis | Closes the work session on HB 3857A and opens a public hearing on HB 2394A. |
| <u>TAPE 162, B</u> | | |
| <u>HB 2394A PUBLIC HEARING</u> | | |
| 010 | Margaret Taylor | Salem, OR Submits testimony and testifies in favor of HB 2394A (EXHIBIT I). Says this bill would allow criminal history information to be given to a physician before deciding whether to involuntarily hold an acutely mentally ill person. |
| 053 | Richard Templeton | Mental Health Division Testifies in opposition to HB 2394A and discusses what he does not like about the house amendments. Submits the –A5 amendments (EXHIBIT J). |
| 082 | Frances Baker | Work Group Testifies in opposition to the house amendments to HB 2394A. |
| 143 | Bob Joondeph | Oregon Advocacy Center Submits testimony and testifies in opposition to the house amendments to HB 2394A (EXHIBIT K). |
| 171 | Andrea Meyer | American Civil Liberties Union of Oregon Testifies as neutral to the –A5 amendments that ostensibly take the bill back to its original form. |
| 200 | Templeton | Says the mental health division is asking that bill be returned to its original state through the –A5 amendments. |
| 238 | Chair Minnis | Closes the public hearing on HB 2394A and opens a public hearing on HB 2942A. |
| <u>HB 2942A PUBLIC HEARING</u> | | |
| 255 | Sheriff Dave Burright | Oregon State Sheriffs’ Association Testifies in support of HB 2942A that modifies procedure for determining county shares of Grant-in-Aid Program moneys. Introduces the –A8 amendment (EXHIBIT L). |
| 294 | Chair Minnis | Closes the public hearing on HB 2942A and opens a work session. |
| <u>HB 2942A WORK SESSION</u> | | |
| 295 | Vice Chair Courtney | MOTION: Moves to ADOPT HB 2942-A8 amendments dated 6/5/01. VOTE: 5-0-2 |
| 298 | Chair Minnis | EXCUSED: 2 - Metsger, Harper Hearing no objection, declares the motion CARRIED. |
| 299 | Vice Chair Courtney | MOTION: Moves HB 2942A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 6-0-1 |
| 303 | Chair Minnis | EXCUSED: 1 – Metsger Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor. |
| 316 | Chair Minnis | Closes the work session on HB 2942A and opens a work session |

on HB 2429A that revises laws governing civil forfeitures for purposes of compliance with limitations imposed on civil forfeiture by Oregon Constitution.

HB 2429A WORK SESSION

324 Vice Chair
Courtney

MOTION: Moves HB 2429A to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 – Metsger

329 Chair Minnis

**Hearing no objection, declares the motion CARRIED.
SEN. COURTNEY will lead discussion on the floor.**

333 Chair Minnis

Closes the work session on HB 2429A and opens a work session on HB 3931A.

HB 3931A WORK SESSION

336 Counsel Shartel

Introduces –A2 and –A3 amendments to HB 3931A that provides that illegally held archaeological objects, funerary objects, human remains, sacred objects and objects of cultural patrimony are contraband (**EXHIBITS M and N**).

374 Dale Penn

Oregon District Attorneys Association

Explains that the –A2 amendments are a technical fix to the language of HB 3931A.

405 Sen. Duncan

MOTION: Moves to ADOPT HB 3931A-A2 amendments dated 5/25/01.

VOTE: 7-0-0

407 Chair Minnis

Hearing no objection, declares the motion CARRIED.

408 Vice Chair
Courtney

MOTION: Moves to ADOPT HB 3931A-A3 amendments dated 6/11/01.

VOTE: 7-0-0

410 Chair Minnis

Hearing no objection, declares the motion CARRIED.

414 Vice Chair
Courtney

MOTION: Moves HB 3931A to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 6-1-0

AYE: 6 - Metsger, Courtney, Minnis, Duncan, Burdick, Harper

NAY: 1 – Beyer

418 Chair Minnis

**The motion Carries.
SEN. COURTNEY will lead discussion on the floor.**

420 Chair Minnis

Closes the work session on HB 3931A and re-opens the public hearing on HB 3461.

HB 3461 PUBLIC HEARING

427 David Cook

Clackamas County Community Corrections

Explains the agreement reached by all parties to the bill and explains that an amendment will be drafted by Thursday.

457 Chair Minnis

Closes the public hearing on HB 3461 and re-opens a work session on HB 2007A.

HB 2007A WORK SESSION

470 Vice Chair
Courtney

MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote by which HB 2007A was to be sent to the floor with a DO PASS AS

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| | | AMENDED recommendation. |
| | | VOTE: 7-0-0 |
| 473 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
| 475 | Vice Chair Courtney | MOTION: Moves to RECONSIDER the vote by which HB 2007A was to be sent to the floor with a DO PASS AS AMENDED recommendation. |
| | | VOTE: 7-0-0 |
| 478 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
| 481 | Chip Lazenby | Governor's Office |
| | | Testifies in support of the -A7 amendments to HB 2007A (EXHIBIT O). |
| 507 | Chair Minnis | Says that he will hold this bill over until Thursday and adjourns the meeting at 9:30 a.m. |

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| Submitted By, | Reviewed By, | Reviewed By, | Reviewed By, |
| Jane Bodenweiser, Committee Assistant | Craig Prins Counsel | Marilyn Odell, Counsel | Andrea Shartel Counsel |

EXHIBIT SUMMARY

- A – HB 2944B, -B10 amendments submitted by staff, dated 5/31/01, 1 p**
- B – HB 2944B, -B11 amendments submitted by staff, dated 6/5/01, 2 pp**
- C – HB 2944B, -B12 amendments submitted by staff, dated 6/8/01, 1 p**
- D – HB 2007A, -A6 amendments submitted by staff, dated 6/11/01, 1 p**
- E – HB 2424A, written testimony submitted by Bradd Swank, dated 6/12/01, 1 p**
- F – HB 2424A, -A4 amendments submitted by staff, dated 6/11/01, 1 p**
- G – HB 3461, written testimony submitted by David Cook, dated 6/12/01, 1 p**
- H – HB 3461, written testimony of David Koch submitted by David Cook, dated 6/11/01,
3 pp**
- I – HB 2394A, written testimony submitted by Margaret Taylor, 7 pp**
- J – HB 2394A, -A5 amendments submitted by Richard Templeton, dated 6/12/01, 1 p**
- K – HB 2394A, written testimony submitted by Bob Joondeph, 1 p**
- L – HB 2942A, -A8 amendments submitted by staff, dated 6/5/01, 2 pp**
- M – HB 3931A, -A2 amendments submitted by staff, dated 5/25/01, 1 p**
- N – HB 3931A, -A3 amendments submitted by staff, dated 6/11/01, 2 pp**
- O – HB 2007A, -A7 amendments submitted by staff, dated 6/12/01, 1 p**
- P – HB 2560A, written testimony submitted by Jon Stubenvoll, dated 6/12/01, 2 pp**
- Q – HB 2560A, written testimony submitted by Jerome S. Cooper, dated 6/12/01, 1 p**