

## HOUSE COMMITTEE ON AGRICULTURE AND FORESTRY

**May 6, 1999 Hearing Room D**

**8:30 a.m. Tapes 59 - 60**

**MEMBERS PRESENT: Rep. Larry Wells, Chair**

**Rep. Terry Thompson, Vice-Chair**

**Rep. Jeff Kropf, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Jim Hill**

**Rep. Elaine Hopson**

**Rep. Jerry Krummel**

**Rep. Judy Uherbelau**

**MEMBER EXCUSED: Rep. Ryan Deckert**

**STAFF PRESENT: B. Harrison Conley, Administrator**

**Samantha Demchak, Administrative Support**

**MEASURE/ISSUES HEARD: SB 674 Public Hearing and Work Session**

**SB 670 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.

TAPE/#	Speaker	Comments
TAPE 59, A		

003	Chair Wells	Calls meeting to order at 8:35 a.m. Opens public hearing on SB 674.
<b><u>SB 674 PUBLIC HEARING</u></b>		
015	Harrison Conley	Discusses provisions of SB 674.
033	Glen Stonebrink	Oregon Cattlemen's Association (OCA). Testifies in support of SB 674. Notes present law exempts a tract of federal lands containing of 25,000 acres or more from following Oregon's open range law. Presents testimony using black board as a visual aide ( <b>EXHIBIT A</b> ).
083	Stonebrink	Discusses how SB 674 clarifies the issue concerning "Open Range and Federal Compliance."
		Staff distributes testimony received prior to hearing ( <b>EXHIBIT B</b> ).
120	Rep. Beyer	Declares a potential conflict of interest on this bill. Adds his ranch is up against borders federally owned lands.
146	Rep. Hill	Asks about Oregon being able to impose the land use laws on the federal government.
165	Stonebrink	Indicates that situation very rarely happens.
178	Rep. Hill	Notes SB 674 is not going to remove the responsibility of cows grazing on someone else's land.
225	Rep. Uherbelau	Notes Oregon cannot tell the federal government what to do on federal property. Indicates SB 674 may leave a false impression with some of the cattlemen.
265	Stonebrink	Notes SB 674 was brought to the legislature because of a federal court case. Indicates there are things that cannot be done on federal lands because county laws would prohibit it.
279	Chair Wells	Asks what is the next step after SB 674 is passed.
300	Stonebrink	Answers it would give a landowner the right to go to the federal government and demand payment for half of the fence. Indicates it might lead to test case litigation.
335	Rep. Beyer	Asks if the acreage needs to be contiguous.
350	Conley	Notes the statute does not use the word "contiguous," but uses the word "tract"

		instead.
361	Stonebrink	Notes if the land is separated at all, it is not in the same tract.
380	Rep. Uherbelau	Indicates if any person challenged the law, Oregon would have to defend it.
400	Chair Wells	Asks about possible involvement of Oregon's Attorney General.
410	Stonebrink	Indicates he is unsure.
017	Rep. Hill	Suggests asking Legislative Counsel.
029	Stonebrink	Notes the OCA is involved with five lawsuits trying to reduce grazing on federal lands.
036	Rep. Beyer	Notes line 1 of the bill indicates that Oregon will not have to defend the law.
047	Rep. Krummel	Notes the only way Oregon would end up defending this is if the federal government filed suit against the state.
057	Rep. Hill	Agrees with Rep. Krummel.
060	Stonebrink	Indicates it is up to ranchers to fight the law.
073	Rep. Beyer	Notes the cattleman could get their test case, but they would have to pay for it.
078	Chair Wells	Closes public hearing on SB 674. Opens work session on SB 674.
<b><u>SB 674 WORK SESSION</u></b>		
<b>082</b>	<b>Rep. Beyer</b>	<b>MOTION: Moves SB 674 to the floor with a DO PASS recommendation.</b>
<b>085</b>		<b>VOTE: 5-0</b> <b>EXCUSED: 4 - Thompson, Uherbelau, Deckert, Kropf</b>
	<b>Chair Wells</b>	<b>Hearing no objection, declares the motion CARRIED.</b>

		<b>REP. BEYER will lead discussion on the floor.</b>
100	Chair Wells	Closes work session on SB 674. Opens public hearing on SB 670.
<b><u>SB 670 PUBLIC HEARING</u></b>		
		Staff distributes written testimony received prior to hearing ( <b>EXHIBIT C &amp; D</b> ).
115	Conley	Discusses provisions of SB 670.
139	Rep. Hill	Asks if a certificate required for all boats.
142	Conley	Distinguishes a certificate of title that shows ownership and Notes the certificate of number that is required to put the boat in the water.
162	Rep. Hill	Asks what the relationship is between throwing objects at trains and hunting and fishing.
170	Conley	Notes that throwing objects is included in the statute related to discharging a weapon at a train.
181	Chair Wells	Notes a river can become a means of trespassing just as a road can.
188	Rep. Beyer	Reports boats that do not require propulsion do not need a certificate of number.
199	Paul Donheffner	State Marine Board (SMB). Notes SB 670 allows the SMB to cancel a boater's certificate of number. Notes there is a concern that many of the convictions for which a certificate could be canceled have no relationship to boating activities about any conviction of the offenses listed would result in the cancellation of the boater's license. Adds it makes no difference if the conviction had anything to do with the use of a boat. Notes the offenses listed were very broad ( <b>EXHIBIT E</b> ).
249	Chair Wells	Asks if the courts would need to keep track of all offenses.
252	Donheffner	Indicates the court would still send an order to the SMB. Notes the bill relates to the cancellation of certificates of number but not cancellation of certificate of title. Acknowledges there is a concern about people figuring out a way to get around the law.
288	Rep. Hill	Asks how will license issuers know the applicant is prohibited from using their boat.

299	George Buckner	Oregon Department of Fish and Wildlife (ODFW). Notes SB 670 would increase the number of hunting and fishing licenses that would be revoked. Adds ODFW is concerned that SB 670 would reduce a court's discretion ( <b>EXHIBIT F</b> ).
349	Chair Wells	Asks if any criminal conviction would go into the ODFW files.
360	Buckner	Notes he does not have the answer to that question.
400	Rep. Beyer	Comments that according to SB 670, that is correct.
410	Rep. Hill	Asks what effect SB 670 would have on someone that lived on their boat.
<b>TAPE 59, B</b>		
015	Donheffener	Notes the boat can stay in the water, but it cannot leave the marina. Indicates floating homes are under a different category.
021	Chair Wells	Asks if the same issues were raised in the Senate.
026	Donheffener	Notes the same issues were raised, but the horn collecting issue was also raised. Notes the antlers are worth a lot of money and people trespass to get the horns.
035	Rep. Hill	Indicates the bill violates the relating clause as it is written.
061	Al Elkins	Oregon Hunters Association (OHA). Indicates OHA is concerned about the wording "committed while hunting." Notes the point of sale program is beneficial to OHA. Expresses concern that SB 670 would create an additional work load on ODFW.
120	Larry Beaver	Association of Northwest SteelheadersANS. Testifies in opposition to SB 670. States this is a one size fits all bill. Notes there are innocent people who will trespass with no malicious intent. Notes if a waterway is navigable, the beds and banks belong to Oregon ( <b>EXHIBIT G</b> ).
170	Sen. Ted Ferrioli	District 28. Notes SB 670 was brought to the legislature because of trespassing with malicious intent. Indicates this issue is violations under ORS 166.630 which are for criminal trespass. Add criminal trespass is a more serious offence.
210	Chair Wells	Asks if there is criminal trespass in places other than the river.
259	Sen. Ferrioli	Answers yes. Indicates the committee could make an amendment to remove all the questions of revocation of Marine Board Licenses.

289	Rep. Beyer	Indicates there are too many broad openings in the bill.
309	Chair Wells	Suggests Sen. Ferrioli put together a work group and work out the problems with the bill. Closes hearing on SB 670. Adjourns hearing.

Submitted By, Reviewed By,

Samantha Demchak, B. Harrison Conley,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A - SB 674, written testimony, Glen Stonebrink, 1 p.**

**B - SB 674, written testimony, John Hayes, 1 p.**

**C - SB 670, written testimony, Wayne Shnlyer, 2 pp.**

**D - SB 670, written testimony, Mike Kilpatrick, 3 pp.**

**E - SB 670, written testimony, Paul Donheffer, 1 p.**

**F - SB 670, written testimony, George Buckner, 1 p.**

**G - SB 670, written testimony, Larry Beaver, 1 p.**