

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

January 20, 1999 Hearing Room E

8:30 a.m. Tapes 6 ñ 7

MEMBERS PRESENT: Rep. Roger Beyer, Chair

Rep. Dan Gardner, Vice-Chair

Rep. Tim Knopp, Vice-Chair

Rep. Jason Atkinson

Rep. Bill Morrisette

Rep. Jackie Winters

MEMBER EXCUSED: Rep. Terry Thompson

STAFF PRESENT: Keith Putman, Administrator

Frances Thomas, Administrative Support

MEASURE/ISSUES HEARD: Informational Meeting, HB 2401, HB 2402, HB 2403, and HB 2405

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 6, A		
005	Chair Beyer	Called meeting to order at 8:34 a.m.
006	Chair Beyer	Reminds audience that cellular phones and electronic devices are not allowed in

the hearing room. Requests they be turned off at this time.

INFORMATIONAL TESTIMONY

013	Rep. Kruse	District 45. Explains background on statute changes in HB 2401, HB 2402, HB 2403, HB 2403. States bills are designed to simplify work for small family farms.
022	Rep. Kruse	Explains that HB 2401 provides exemptions regarding safety committees.
031	Rep. Kruse	States HB 2302 exempts corporate farms from occupational health and safety requirements when the employees are corporate officers.
041	Rep. Kruse	States HB 2403 excludes seasonal agricultural workers when determining need for work place safety committees.
054	Rep. Kruse	Explains HB 2405. Requires the Occupational Safety and Health Division (OSHA) to give farms a chance to remedy problems before a fine is levied. Clarifies that this does not prohibit OSHA from levying a fine if the business does not comply.
074	Rep. Thompson	States concerns about HB 2405 regarding the distinction of a "serious violation."
076	Keith Putman	Administrator. Clarifies that currently "serious violation" is stated in the law as one that causes "significant harm or death".
080	Rep. Kruse	Explains a Conflict of Interest regarding HB 2405. Clarifies conflict with an example.
101	Rep. Kruse	Discusses ramifications of potential fines in example cited.
141	Rep. Knopp	Asks where the money goes for these fines. Suggests it may go to the OSHA budget.
143	Rep. Kruse	Explains he is not sure of the recipient account.
146	Rep. Morrisette	Asks if new equipment purchases are a problem in complying to OSHA standards.
152	Rep. Kruse	Explains that new equipment is not necessarily the problem. Clarifies that it could be the result of modifications of manufactured machinery. Defines by giving an example.

166	Rep. Morrisette	Asks how comprehensive are the OSHA's regulations for compliance regarding modifications made to equipment.
171	Rep. Kruse	Answers that OSHA has a regulation book and it is massive.
178	Rep. Morrisette	Asks for further clarification of HB 2401.
181	Rep. Kruse	Defers answer to Don Schellenberg, Oregon Farm Bureau.
185	Rep. Winters	Asks about practice from OSHA for updating rules.
188	Rep. Kruse	Comments that to expect the average citizen learn and retain all of the rules and changes is impossible.
196	Rep. Winters	Asks how one is expected to be in compliance.
198	Rep. Kruse	Comments that most businesses desire to be in compliance, but must rely on OSHA agents to relay information on rule changes.
208	Rep. Kruse	Clarifies that in no way is this bill meant to decrease safety.
<u>PUBLIC HEARING, HB 2401</u>		
227	Chair Beyer	Opens Public Hearing on HB 2401.
228	Don Schellenberg	Associate Director of Governmental Affairs for the Oregon Farm Bureau. States purpose of HB 2401 (EXHIBIT A).
262	Schellenberg	Explains that requirements for safety committees may cause burden and lost work time for small operations
310	Schellenberg	Asks the committee to recognize the inherent safety advantages of the small employer and remove the lost work day incidence rate threshold by voting in favor of HB 2401.
321	Schellenberg	Concludes testimony on HB 2401 and restates support.
326	Rep. Gardner	Comments that Oregon is only state with this requirement. Asks was this part of the Mahonnia Hall workersi compensation trade off with regard to a more responsible approach to safety.
347	Schellenberg	Comments that he was not a part of Mahonnia Hall and had he been, this clause

		may not exist because of the possible impact on small agriculture.
350	Rep. Morrisette	Asks for clarification of time period, in "lost work day."
356	Schellenberg	Defines as number of days lost because of work related injury or illness during a year.
375	Rep. Morrisette	Asks if safety committees have anything to do with OSHA regulations on children operating equipment and being around dangerous machinery.
392	Schellenberg	Comments that regardless of the age of the worker, they are subject to the same rules. States that this bill does not eliminate any of the other safety training that is already required, such as the requirements of the Hazardous Communications Act.
430	Rep. Winters	Asks details about parameters of safety committee.
TAPE 7, A		
004	Schellenberg	Reflects on understanding of committee requirements. Explains the committee would be required to meet on a quarterly basis, provide meeting notices, take and keep minutes, and distribute copies to the employees.
011	Rep. Knopp	Asks about the financial impact on these farms.
013	Schellenberg	States that the financial impact would vary with size and type of operation.
023	Rep. Gardner	Asks if the intent of this bill is to discuss safety issues and distribute that information to employees.
034	Schellenberg	Confirms that is the intent.
039	Rep. Gardner	Discusses required paperwork.
050	Rep. Morrisette	Comments on safety issues within the farming operation.
064	Schellenberg	Comments on conversation with a small farmer.
<u>PUBLIC HEARING ON HB 2402, HB 2403, HB 2405</u>		
074	Chair Beyer	Opens Public Hearing at 9:07 a.m. on HB 2402, HB 2403, and HB 2405.

083	Schellenberg	Explains issues of HB 2402 (EXHIBIT B).
121	Schellenberg	Explains issues of HB 2403. Defines the term "seasonal employees" Asks for language change (EXHIBIT C).
149	Schellenberg	Explains HB 2405. Highlights the recent adoption of OSHA administrative rules applying to agricultural employers titled Division 4 (EXHIBIT D).
177	Rep. Gardner	Ask for definition of "corporate officers" mentioned in HB 2402.
183	Schellenberg	Explains the terms do not have a statutory definition.
194	Michael Dale	Attorney, Oregon Law Center, a non profit legal services provider. Testifies in opposition on HB 2401 and HB 2403 (EXHIBIT E).
207	Dale	Explains agriculture is one of most hazardous occupations in state and should not be exempt from requirements. Discusses necessity of oral and written communication for non English speaking employees.
296	Dale	Opposes HB 2405. Addresses issue which prohibits OSHA fining an operation on the first inspection (EXHIBIT F).
316	Dale	Continues testimony. Speaks about serious violations concerning "first visits" to a farm.
354	Dale	Explains "safety violations" rule.
383	Dale	Uses OSHA statistics to re-enforce position on HB 2405.
422	Rep. Thompson	Asks members to empathize with a fisherman or farmer being fined for violations of regulations he is unaware of.
453	Dale	Replies that after being fined numerous times, it would be to ones advantage to learn the law.
465	Rep. Morrisette	Comments about strong feelings for the importance of safety.
TAPE 6, B		
001	Chair Beyer	Comments regarding handling of hazardous chemicals.
009	Rep. Thompson	Ask about education versus fines.

010	Dale	States that OSHA does offer public consulting services to farm operations and feels this outreach program is important.
028	Dale	Explains opposition to HB 2402 (EXHIBIT G).
043	Rep. Winters	Comments about a desire for a cooperative approach rather than an adversarial one.
055	Dale	Agrees that OSHA should be supported to carry out functions. Feels that without sanction, the department would fail to get the desired results for unsafe conditions.
066	Sen. Susan Castillo	State Senator, District 20. Testifies of concerns for rolling back protection for a particularly vulnerable portion of the work force.
088	Chair Beyer	Calls for a seven minute break.
092	Chair Beyer	Resumes hearing at 9:45 a.m.
106	Ramone Ramirez	President, Northwest Tree Planters and Farmworkers United (PCUN). Presents statistics of membership. Expresses opposition of all four bills being discussed (EXHIBIT H).
122	Ramirez	Speaks of housing and working conditions, minimum wage laws and numerous OSHA violations connected with these issues.
144	Ramirez	Presents an exposé of farm workers' living and working conditions published in the <i>Oregonian</i> in 1998 (EXHIBIT I).
189	Ramirez	States the farmworker union has signed a collective bargain agreement for the first time in Oregon's history.
206	Ramirez	Invites each member of the committee to accompany him on a tour of farms so the appalling living and working conditions can be witnessed first hand.
226	Ramirez	Challenges elected leaders with responsibility to improve these conditions for the people who put food on the tables of the American public.
259	Ramirez	Feels passage of these bills sends the wrong message to the growers.
268	Jonathon Briar	Translator for Vicente Gonzalez, farmworker and resident of Woodburn, Oregon (EXHIBIT J). Reads Mr. Gonzalez's letter of testimony in English.

300	Rep. Morrisette	Asks that Vicente Gonzalez speak.
306	Vicente Gonzalez	Thanks you on behalf of all of the people that work on the farms in the State of Oregon. Mr. Briar translates for him. States the importance of getting safety instructions in written form, as well as verbally. Feels the safety committees should be continued and if possible translate the instructions into Spanish.
388	Rep. Winters	Asks Mr. Gonzalez how large is the workforce on your farm.
395	Gonzalez	Answers about 50 workers.
401	Tom Nelson	Manager, Hood River Grower/Shipper Association, Hood River. Submits written testimony from John McCulleyís, lobbyist representing the Tree Fruit Growers (EXHIBIT K) . Speaks in favor of HB 2401.
425	Nelson	Explains membership and products.
455	Nelson	Suggest following rules in Workersí Compensation rules for corporate officers regarding HB 2402 (EXHIBIT K) .
472	Nelson	Comments that HB 2403 accompanies HB 2401 (EXHIBIT K) .
479	Nelson	References HB 2405. Comments about difficulty of knowing an inspection is coming and the imminence of being cited (EXHIBIT K) .
TAPE 7, B		
005	Rep. Gardner	Asks for examples from OSHAís files of instances when a farmer has been cited.
014	Nelson	Responds by offering to provide details.
018	Rep. Gardner	Comments on the use of OSHA consultants Asks if family farms use this service.
024	Nelson	Comments that in Hood River the consulting service is used extensively.
073	Rep. Thompson	Requests opinion about experience with the quality of OSHA officers. Asks if they seem understand their business.
075	Nelson	Comments that the last five or six years have been very strong especially since the consulting program was initiated.
089	Rep. Morrisette	Requests a definition of "punitive."

095	Nelson	Comments that education has taken away "shooting ducks in a pond." approach. Explains that the violations tend to be more technical.
110	Rep. Morrisette	Inquires about the seriousness of situation for fining on first visit.
114	Nelson	Comments it may depend how cooperative the farm operation is with regard to past experience in complying with violations.
129	Chair Beyer	Requests a copy of the report conducted in Hood River area on the number of OSHA inspections in the past year.
144	Chair Beyer	Closes Public Hearing.
153	Chair Beyer	Comments that because of the volume of testimony connected with these issues, the committee will hear testimony again next week. Invites OR-OSHA to give testimony. Asks for support information about the statement "40% of job injuries in the state of Oregon are agriculture related" and number of inspections that were conducted to get the 530 agriculture related violations of which 27 were considered "serious." Asks where the collected funds for fines are posted. Sees a package of three bills as follows: <ul style="list-style-type: none"> • HB 2402 one issue • HB 2401 and HB 2403 combined issues • HB 2405 one issue
175	Chair Beyer	Requests that the Oregon Farm Bureau work with committee staff and the any other interested parties to identify these changes.
183	Chair Beyer	Adjourns committee at 10:37 a.m.

Submitted By, Reviewed By,

FRANCES THOMAS, KEITH PUTMAN,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2401, written testimony, Don Schellenberg, 2 pp

B ñ HB 2402, written testimony, Don Schellenberg, 1 p

C ñ HB 2403 written testimony, Don Schellenberg, 2 pp

D ñ HB 2405, written testimony, Don Schellenberg, 1 p

E ñ HB 2401 and HB 2403, written testimony, Michael Dale, 1 p

F ñ HB 2405, written testimony, Michael Dale, 2 pp

G ñ HB 2402, written testimony, Michael Dale, 1 p

H ñ HB 2401, HB 2402, HB 2403, and HB 2405, written testimony, Ramone Ramirez, 1 p

I ñ Written testimony Ramone Ramirez, 6 pp

J ñ HB 2401, HB 2403 and HB 2405, written testimony, Vicente Gonzales, 1 p

K ñ HB 2401, HB 2402, HB 2403, and HB 2405, written testimony, John McCulley, presented by Tom Nelson, 3 pp