

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

March 12, 1999 Hearing Room E

8:30 a.m. Tapes 55 - 57

MEMBERS PRESENT: Rep. Roger Beyer, Chair

Rep. Dan Gardner Vice-Chair

Rep. Tim Knopp, Vice-Chair

Rep. Jason Atkinson

Rep. Bill Morrisette

Rep. Terry Thompson

Rep. Jackie Winters

STAFF PRESENT: Keith Putman, Administrator

Frances Thomas, Administrative Support

MEASURE/ISSUES HEARD: Informational Meeting on OR-OSHA Safety Committees

HB 2793 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 55, A		
001	Chair Beyer	Calls the meeting to order at 8:35 a.m.
<u>INFORMATIONAL MEETING: OR-OSHA SAFETY COMMITTEES</u>		

002	David Sparks	OR-OSHA. Explains the establishment of safety committees for small agricultural employers and the exclusion of seasonal workers in reference to HB 2401 and HB 2403. Cites page 2 of EXHIBIT A . Discusses provisions to streamline record keeping (EXHIBITS A & B).
055	Chair Beyer	Closes the Informational Meeting. Opens the Public Hearing on HB 2793.
<u>HB 2793 PUBLIC HEARING</u>		
070	Doug McKean	Legislative Counsel. Addresses previous questions from the committee concerning the bill's specific language and minors who have previously worked for employers.
108	Rep. Gardner	Asks McKean to clarify specific language concerning minors.
113	McKean	Replies that it is possible.
116	Rep. Thompson	Cites page 3, line 10. Asks McKean to explain the specific language.
126	McKean	Responds by explaining direct tips and pooled tips.
137	Mike McCallum	Oregon Restaurant Association (ORA). States that the federal code is the origin for this specific language.
157	Keith Putman	Committee Administrator. Suggests that the figure is actually \$20 instead of \$30 per month in tips.
163	McCallum	Expresses uncertainty.
170	Paul Tiffany	Government Relations Manager, Bureau of Labor and Industries (BOLI). Indicates the existing penalty in the minimum wage statute would not apply upon passage of HB 2793.
189	Rep. Gardner	Asks if there would be no penalty for violating the minimum wage law.
192	Tiffany	Replies yes.
194	Rep. Gardner	Asks if the employee would have to take the employer to court in order to achieve relief.
197	Tiffany	Replies that BOLI could only take an injunctive suit.

204	Chair Beyer	Asks if a penalty can be put in the statute.
207	Tiffany	Replies that an easy solution would be to add a reference to existing statute.
212	Rep. Gardner	Asks what the maximum penalty would be, if it would be distributed to the employee and if the employer would have to take the employee back.
214	Tiffany	Replies that it would be a maximum of \$1000 for each violation, which would go to the state general fund. Adds that the employer would not have to take back the employee unless specifically directed.
225	Rep. Gardner	Summarizes Tiffany's answers.
229	Tiffany	Agrees with Rep. Gardner's summary.
232	Chair Beyer	Asks if the employee would have the right to specific relief in court.
240	Tiffany	Expresses uncertainty. Clarifies that the federal statute provides a \$20 per month tip restriction while Oregon's law is \$30.
269	Steven Johnson	Associate Director, University of Oregon's Survey Research Laboratory. Discusses the fallacies in Professor Jim Terborg's study presented on Wednesday, March 10, including the low response rate, the failure to look at the non-respondents, and the accuracy of the survey (EXHIBIT C).
340	Johnson	Indicates that the most serious problem with the survey is in its interpretation--the mischaracterization of attitudes as numeric data. States that the university approval did not address content or methodology.
380	Rep. Gardner	Asks if there is a reliable method of calculating tips.
384	Johnson	Discusses possible methods.
406	Rep. Atkinson	Asks about classifications of confidence levels.
415	Johnson	Replies that Terborg's survey is always descriptive. Explains what would have to be done to increase the survey's scientific validity.
439	Rep. Atkinson	Asks about the Department of Transportation (ODOT) study Johnson is currently doing.
448	Johnson	Describes the ODOT survey.

TAPE 56, A

001	Rep. Knopp	Asks if Johnson is aware that IRS has a method of calculation for unreported tips.
002	Johnson	Replies no.
017	Dr. Gordon Lafer	Professor, University of Oregon. Discusses Professor Terborg's study and the reasons that it is fallacious. Notes that accepted data contradict the conclusions of the study. Concludes that the study should be dismissed (EXHIBIT D).
057	Rep. Thompson	Suggests asking for a response from the survey proponents.
069	McCallum	ORA. States that separate studies present different answers. Defends the study presented by Professor Terborg.
082	Chair Beyer	Refers to information from the Oregon Employment Department (OED) (EXHIBIT E).
097	Rep. Gardner	Cites information from the state's web site about the restaurant industry. Asks if there have been job gains in the restaurant industry.
100	Jeff Hannum	State labor economist, OED. Replies yes, although job growth rate has slowed.
104	Rep. Gardner	Cites information from ORA's web site on above average job growth. Asks if the information is accurate.
110	Hannum	Expresses uncertainty. Adds he expects the restaurant industry will add jobs.
124	Rep. Gardner	Asks if the January decline in the restaurant industry is normal.
127	Hannum	Replies that there is normal loss of jobs between December and January.
143	Rep. Thompson	Asks for regional comparison of restaurant business (EXHIBIT E, pp. 2).
155	Hannum	Indicates that the graph represents statewide data and could change slightly depending upon region or time of year.
160	Rep. Thompson	Asks for regional information concerning the coast. Suggests that HB 2793 would significantly impact coastal employees.

170	Hannum	Replies that he will provide the requested information.
195	Sean Getske	Wild Duck, Eugene. Supports HB 2793. Explains how tips and the minimum wage affect his business and the relationships between his employees.
259	Paul Paz	Waiter, Beaverton. Offers a compromise plan: establish an across the board, 60-day \$5.50 training wage for all tipped employees (EXHIBIT F).
309	Alex Helzer	Chef, Gustavis. States that he voted for a minimum wage increase. Explains the method of giving his employees raises. Indicates that HB 2793 would penalize kitchen help.
366	Rep. Thompson	Asks if tips are shared between staff.
370	Getske	Replies the kitchen staff at the Wild Duck does receive small, taxable tips.
375	Helzer	Adds there is no organized structure at his restaurant.
385	Rep. Gardner	Asks how the bill will increase the number of hours available to kitchen staff.
397	Helzer	Replies due to economic constraints, kitchen staff is asked to limit their overtime hours.
419	Rep. Morrisette	Asks about the difference between a cook and a chef.
424	Helzer	Replies that it is in the experience.
440	Rep. Morrisette	Asks about the levels of pay in a kitchen.
446	Getske	Answers that performance, skill and experience can affect an employee's position.
462	Rep. Morrisette	Complains about Chair Beyer's handling of the meeting.
TAPE 55, B		
014	Jeremy Fortune	The Ram, Salem. Opposes HB 2793. Describes the financial difficulties of his personal situation and that of his peers who work in restaurants. Notes that lowering the minimum wage will result in more people on public assistance.
050	NanDei McAnally	Server, Outback Steak House, Beaverton. Explains her personal situation as an educated artist. Opposes HB 2793. Counters the contention that more hours

		will be available to servers if the minimum wage is reduced (EXHIBIT G).
089	Alan Kirby	Student and part-time waiter, Salem. Opposes HB 2793. Notes that, taking inflation into account, the minimum wage is below what it was in 1976. Discusses possible effects of HB 2793 (EXHIBIT H).
137	Rep. Knopp	Asks if the panel all make more than \$3.50-\$4.50 in tips.
148	Kirby	Replies that it varies.
155	McAnally	Indicates that the cost of litigation is prohibitive.
166	Fortune	Relates his concern that restaurants will attempt to fire employees so that lower paid employees can be hired.
180	Sean Murtagh	Manager, Heartland Payment Systems. Discusses the rising costs in the restaurant industry. Notes that his industry will be impacted by negative effects on the restaurant industry.
235	Peter Jaimison	Owner, Jamie's Restaurants, ORA. Supports HB 2793. Stresses that the future of his business is in question and the bill only affects people who make above \$10.50. Compares the dire prospects for the restaurant industry to the timber industry (EXHIBIT I).
290	Bob Burton	Restaurant owner, Corvallis. Supports HB 2793. Discusses the effect of labor and tax costs on his business. Emphasizes the negative impacts on employees.
345	Rep. Gardner	Refers to EXHIBIT I . Asks about the gross earnings compared to labor costs.
353	Jamison	Explains EXHIBIT I .
362	Rep. Atkinson	Asks about the profitability of the restaurant industry in Oregon.
370	Burton	Responds the profit range is about 3-5%.
388	Rep. Knopp	Asks Burton to clarify labor costs.
404	Tim Nesbitt	Oregon State Council of Service Employees (OSCSE). Opposes HB 2793. States that pay equity can not be achieved by cutting the wages of workers. Notes that the bill does not require the money to shift from the "front of the house" to the "back of the house."
012	Jeannie Berg-Rempel	SEIU. Opposes HB 2793. Discusses a 1995 wage survey that underlines the

		direct relationship between wages for servers and kitchen staff. Mentions the work opportunity tax credit (EXHIBITS J & K).
064	Rena Demeo	El Piatto, Portland. Compares the tip climates in Boston and Portland. Describes her dire financial situation.
105	Rep. Knopp	Asks if, given her hourly wage, would HB 2793 apply to her.
108	Demeo	Replies no.
111	Rep. Knopp	Asks how many people are in OSCSE and how many are restaurant employee
113	Nesbitt	Responds that there are 28,000 members, none of whom are directly employed in restaurants.
119	Steve Moore	Philadelphia Steaks & Hoagies, Portland. Supports HB 2793. Responds to previous testimony concerning hours and wages, noting that HB 2793 may benefit employees and the public. Indicates that HB 2793 is not a minimum wage issue, but a wage issue.
171	Rolly Heusier	Owner, Coyote Joe's. Supports HB 2793. Compares the reduction of hours and employees in 1998 to 1999 and relates the reduction to the increase in the minimum wage. Reports that he will not be able to raise wages again and will be required to continue cuts in hours.
218	Rep. Gardner	Asks Moore if he is aware of his eligibility for a tax credit.
224	Moore	States that he receives no tax credits.
231	Rep. Thompson	Asks Heusier for an estimation of how much the minimum wage costs him.
240	Heusier	Responds that the past two years have cost him about \$25,000.
250	Rep. Gardner	Comments that other tax credits are available.
255	Beyer	Asks Heusier if his restaurant is close to a casino. Asks if his profits on video poker have been affected by the casino.
260	Heusier	Responds that video poker is a joke.
270	Rep. Gardner	Asks Moore if he profits from video poker.

272	Moore	Replies that he does less sales per square foot than he does on tables.
278	Rep. Gardner	Asks why he does not take out the poker machines.
300	Moore	Replies that he has considered that option.
308	Jennifer Cornell	Assistant Professor, Oregon State University. Opposes HB 2793. Defines a tip as an unguaranteed bonus from the customer. Indicates that a majority of Oregon voters already defeated the intent of HB 2793 (EXHIBIT L).
369	Amy Scholerman	Student, Western Oregon University. Opposes HB 2793. Describes her personal experiences. Indicates that Oregonians have already voted to increase the minimum wage (EXHIBIT M).
392	Kalill Hamid	Student, Portland High School. Opposes HB 2793. Describes his personal financial hardship and how the bill would affect his situation.
431	Rep. Thompson	Asks if being under the age of 18 would actually increase his ability to get a job.
435	Hamid	Expresses uncertainty.
470	Rachelle Mayes	Server. Opposes HB 2793. States that she lives on her tips.
TAPE 57, A		
008	Shawna Kanaga	Server. States that she also lives on her tips. Acknowledges that her wages are not guaranteed.
025	Rep. Thompson	Asks what kind of restaurants they work in.
028	Mayes	Responds that they work for Outback.
034	Marlisse Mars	Server, Red Star. Opposes HB 2793. Dismisses arguments connecting rises in the minimum wage to drops in the number of available hours. Describes her personal experiences and the amount of tips she receives.
071	Ellen Lowe	Director of Public Policy, Ecumenical Ministries of Oregon. Opposes HB 2793. Discusses the history of the minimum wage issue and her past involvement. Emphasizes that the minimum wage was generated with no exceptions, including tip credits and training wages.
115	Lynn Partin	Women's Right Coalition. Opposes HB 2793. Underscores the

		disproportionate number of women who live in poverty and work in lower paying service industries. Describes her personal experiences in restaurants. Cites Section 5 of the bill and how it penalizes restaurant workers (EXHIBIT N).
163	Jerry Scott	Opposes HB 2793. States that he tips to increase wages of restaurant workers. Describes his personal experience working for low wages (EXHIBIT O).
200	Sylvia Caley	Oregon Law Center. Opposes HB 2793. Emphasizes the importance of tipped work to at-risk people and families. Underscores the honorability of tipped work (EXHIBIT P).
245	Lee King	United Steel Workers of America, Local 6163. Opposes HB 2793. States that he expects his tips to go to servers not restaurant owners. Quotes Proverbs 22:16.
275	Scott	Points out that a training wage indiscriminately classifies people based on age.
282	Rep. Thompson	Requests the attendance of legal counsel at the next meeting.
315	Steve Elliott	Opposes HB 2793, indicating that his income will decrease. Notes that restaurant workers do not have a lobby. States that restaurant owners are actually being subsidized (EXHIBIT Q).
370	Ed Dennis	Oregon Student Association. Opposes HB 2793 and any change in the minimum wage, expressing the concern about students' debt burden.
379	Ben Nelson	Oregon AFL-CIO. Opposes HB 2793. Reiterates the bill directly flouts the will of the voters. Notes the overall growth in the restaurant industry despite the rise in the minimum wage. Adds that higher minimum wages have aided welfare-to-work programs (EXHIBIT R).
448	Rep. Gardner	Acknowledges that Washington's minimum wage will exceed Oregon's in about a year.
457	Chair Beyer	Introduces testimony from Angela Rader (EXHIBIT S). Closes the Public Hearing on HB 2793. Adjourns the meeting at 10: 45 a.m.

Submitted By, Reviewed By,

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EXHIBIT SUMMARY

A ñInformational Meeting (OR-OSHA), written testimony, David Sparks, 2 pp.

B ñInformational Meeting (OR-OSHA), administrative rules, David Sparks, 5 pp.

C ñHB 2793, written testimony, Steve Johnson, 3 pp.

D ñHB 2793, written testimony, Gordon Lafer, 4 pp.

E ñHB 2793, statistics, Paul Tiffany and Jeff Hannum, 9 pp.

F ñHB 2793, written testimony, Paul Paz, 1 p.

G ñHB 2793, written testimony, NanDei McAnally, 5 pp.

H ñHB 2793, written testimony, Alan Kirby, 2 pp.

I ñHB 2793, written testimony, Peter Jamison, 10 pp.

J ñHB 2793, written testimony, Jeannie Berg-Rempel, 1 p.

K ñHB 2793, written testimony, Jeannie Berg-Rempel, 8 pp.

L ñHB 2793, written testimony, Jennifer Cornell, 1 p.

M ñHB 2793, written testimony, Amy Scholerman, 1 p.

N ñHB 2793, written testimony, Lynn Partin, 1 p.

O ñHB 2793, written testimony, Jerry Scott, 5 pp.

P ñHB 2793, written testimony, Sylvia Caley, 2 pp.

Q ñHB 2793, written testimony, Steve Elliott, 4 pp.

R ñHB 2793, written testimony, Ben Nelson, 12 pp.

S ñHB 2793, written testimony, Angela Rader, 1 p.