

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON REGULATIONS

February 10, 1999 Hearing Room 350

3:00 p.m. Tapes 3 - 4

MEMBERS PRESENT: Rep. Bill Witt, Chair

Rep. Al King

Rep. Anitra Rasmussen

Rep. Mark Simmons

STAFF PRESENT: Jason Cody, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

HB 2565 ñ 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 3, A		
004	Chair Witt	Calls meeting to order at 4:03 p.m. and opens the public hearing on HB 2565.
<u>HB 2565 ñ PUBLIC HEARING</u>		
007	Jason Cody	Administrator. Explains provisions of the bill.
026	Chair Witt	Comments that since 1992 the Department of Justice has received four complaints of overcharging.

031	John Valley	Consumer Advocate, Oregon State Public Interest Research Group (OSPIRG). Submits and reads a prepared statement supporting HB 2565 and proposing amendments (EXHIBIT A).
080	Valley	Continues reading statement.
094	Rep. King	Asks what a "scanning error" would be.
105	Valley	Responds it would be a difference between the advertised price or shelf price and what appears on the scanner.
117	Chair Witt	Comments he thinks their intent is when a different price appears on the scanner than from what is on the item or what it was advertised for.
122	Valley	Agrees. Adds that their main concern is that people are unaware that whatever they think they are paying for an item is not necessarily being rung up.
135	Rep. Simmons	Asks if it also could be that the advertised price is wrong.
137	Valley	Responds he understands from the Federal Trade Commission (FTCC) report there are several problems with stores tracking the information. Sometimes the programming is not up to speed with the advertised price. The opposite is also possible. His understanding is that non-sale items are more likely to be undercharges and the sale items are more likely to be overcharges.
148	Rep. Simmons	Comments he believes the problem is more likely with the software than the hardware..
154	Valley	Responds they would argue there is nothing to hold the stores accountable for making sure the scanners are accurate. If people are programming the numbers incorrectly, there is no incentive for them to fix it other than the fact they may be undercharging people.
164	Chair Witt	Comments he thinks Mr. Valley's point is that the price people think they are going to pay and the price they are actually being charged has not been consistent in some cases.
169	Rep. King	Comments he sees a lot of room for honest mistakes. Adds that some people have seen the 60 Minute special where they covered this issue. There were cases where someone did find a wrong price and went to the management. When they went back, they found the same problem. Adds if there is a significant abuse issue, we should have a mechanism to respond.
190	Chair Witt	Comments there have only been four cases reported over a several-year period. Asks if that does not indicate when people find an error of this nature feel they have a remedy in talking to the retailer.

185	Valley	Comments he believes many people are not aware they can go to the retailer.
211	Rep. Simmons	Asks if Mr. Valley has been undercharged and then gone back to buy more of the item.
214	Valley	Responds negatively.
227	Charles Craig	Assistant Director, Oregon Department of Agriculture (ODA). Introduces George Shefcheck, Administrator, Measurement Standards Division, ODA. Submits and summarizes a prepared statement explaining the department activities and authority over scanners (EXHIBIT B) .
302	George Shefcheck	Presents the preliminary results of a Price Verification Study done by their department (EXHIBIT C) . Summarizes a prepared statement (EXHIBIT D) .
344	Craig	Comments that scanner rates of errors are lower than manual rates Studies show that consumers are undercharged more often than overcharged .
390	Craig	Adds that the pattern and magnitude of pricing errors documented in Oregon is similar to that in other parts of the country. ODA is fairly certain supermarkets already meet the recommended two percent scanner standard. Major improvements in scanner accuracy have been documented by the FTC study in 1996 and 1998. Suggests that industry awareness has contributed to an improvement. Comments ODA receives very few complaints about scanners
418	Craig	.Informs members ODA is going to complete the on-going study in the next few months to determine where the more serious problems might lie. They will initiate a program of consumer and industry awareness and education. ODA will adopt by rule standards for pricing accuracy that are found in "Handbook 130". At some point they will repeat the price verification surveys and if necessary initiate appropriate enforcement action where establishments have failed to correct problems they have been informed of.
439	Rep. Simmons	Comments he is pleased and not surprised that ODA has been looking at this.
TAPE 4, A		
009	Rep. King	Asks what dollar amount the errors result in statewide.
011	Shefcheck	Refers to Table I (EXHIBIT C, page 2) . Notes the percentages of overcharges and undercharges by food stores.
025	Rep. King	Asks if the overcharges amount to millions of dollars per year in Oregon.
026	Shefcheck	Responds he could not predict the amount based on a sample of 25. Adds that the

		total amount of undercharges on 25 inspections was \$212.95. The total amount of overcharges was \$30.59.
040	Rep. King	Asks if there has been enforcement action where the wrong price was detected and the manager was advised and there was a follow up 24 hours later to see if the correction had occurred.
043	Shefcheck	Responds they have not had that problem. Explains that when they go into a business and found an overcharge or undercharge, it was corrected. Adds that the store manager or one of his or her representatives is with the ODA personnel throughout the inspection.
059	Rep. King	Comments ODA's process is more monitoring than enforcement.
059	Shefcheck	Agrees.
061	Rep. King	Asks if ODA sees a need for a scanner monitoring and enforcement program.
062	Shefcheck	Responds that they need to finish the survey and maybe do another one with as many or more items and get a bigger picture and see how they measure up. Adds that the 25 items is a small sample.
068	Rep. Kind	Asks if they determine enforcement is necessary, what ODA would regard as the most efficient way to respond.
074	Shefcheck	Responds he would recommend taking it to the Justice Department as financial fraud under the Unfair Trade Practices Act.
077	Craig	Comments they do that fairly frequently with various kinds of enforcement programs. Thinks the enforcement remedies are pretty potent for someone who is either willful or grossly negligent in correcting a problem
082	Chair Witt	Asks if it is ODA's opinion that most errors are inadvertent.
084	Shefcheck	Responds affirmatively.
108	Steve McCoid	Oregon Grocery Industry Association (OGIA). Submits and paraphrases a prepared statement in opposition to HB 2565 (EXHIBIT E).
140	McCoid	Continues presentation.
186	McCoid	Continues presentation.

195	McCoid	Comments they worked with ODA to develop the protocol for the price verification study and have cooperated with them. OGIA is pretty confident that the results will show that the Oregon grocers are doing a good job.
206	McCoid	Comments that Associated Oregon Industriesí Retail Council also opposes this bill.
235	McCoid	Urges committee not take action on HB 2565.
266	Rep. King	Comments it would not make sense for a large retail chain to fraud customers.
274	Rep. Rasmussen	Comments what might be behind the motivation for this bill is not around direct fraud but around whether there is a carelessness in the industry that is showing up as undercharges and overcharges. Then, if there is carelessness, is there a need to change the current system of catching the carelessness or creating a deeper level of caring.
290	Chair Witt	Closes the public hearing on HB 2565.
291	Chair Witt	.Announces that several bills have been assigned to the subcommittee and adequate notice will be given to members to allow them time to prepare for the meeting.
296	Chair Witt	Adjourns meeting at 4:46 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2565, prepared statement, John Valley, 2 pp

B ñ HB 2565, prepared statement, Charles Craig, 2 pp

C ñ HB 2565, Price Verification Study, George Shefcheck, 3 pp

D ñ HB 2565, prepared statement, George Shefcheck, 1 p

F ñ HB 2565, prepared statement, Steve McCoid, 2 pp