

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON REGULATIONS

April 26, 1999 Hearing Room 350

3:00 p.m. Tape 45 - 46

MEMBERS PRESENT: Rep. Bill Witt, Chair

Rep. Al King

Rep. Anitra Rasmussen

Rep. Mark Simmons

STAFF PRESENT: Jason Cody, Administrator

Nancy Geisler, Administrative Support

MEASURE/ISSUES HEARD: HB 3388 Public Hearing and Work Session

HB 2735 Public Hearing

HB 2576 Public Hearing

HB 3556 Public Hearing and Work Session

HB 3558 Public Hearing and 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 45, A		
003	Chair Witt	Opens meeting at 3:15 p.m. and opens public hearing on HB 3388.
<u>HB 3388 n PUBLIC HEARING</u>		
011	Jason Cody	Administrator. Explains HB 3388.

013	Rep. Ryan Deckert	District 8. Presents written testimony and the ñ2 amendments to HB 3388 (EXHIBIT A). Explains the intent of the ñ2 and the ñ3 amendments. Notes the ñ3 amendments are currently in the Legislative Counselis (LC) office for drafting.
031	Chair Witt	Inquires if the ñ1 amendments require the 8-point, boldfaced type.
034	Rep. Deckert	Replies yes.
036	Chair Witt	Clarifies the amendments from the Department of Justice (DOJ) are not in LC form yet.
038	Rep. Deckert	Answers that is correct. Explains the difference between the ñ2 and the ñ1 amendments.
045	Peter Shepherd	Attorney-in-Charge, Financial Fraud, Consumer Protection Section, DOJ. Presents proposed draft amendments to HB 3388 (EXHIBIT B). Explains how the DOJis amendments are designed to protect older Oregonians against various forms of abuse.
094	Shepherd	Further explains the DOJis amendments to HB 3388.
112	Shepherd	Reports he has tried in the draft amendments to create a workable structure for sweepstakes promoters and add to consumer protection.
148	Shepherd	Notes the amendments will not solve all of the problems related to victimized seniors, but will make a difference in some of the cases.
158	Chair Witt	Asks what is the range of penalty one is subject to if they engage in elder abuse.
162	Shepherd	States it includes civil damages, injunctive relief, attorneyís fees, and punitive damages.
170	Chair Witt	Gives an example of an elderly person spending \$1,000 on contests, then asking to be removed from the solicitation list. Asks if the request is not honored, can they can seek injunctive relief and damages after 45 days.
184	Shepherd	Responds they can seek a restraining order and injunctive relief.
188	Chair Witt	Inquires, if nothing has been purchased since the 45 days elapsed, is it likely there would the award of any compensatory or punitive damages.
190	Shepherd	Answers there would be no damages at that point.

197	Chair Witt	Adds if, between days 45 and 90, the elderly person spends another \$1,000 after proper notice to stop solicitations, would they have a claim for that \$1,000, punitive damages, injunctive relief, and the attorney's fees.
203	Shepherd	Answers that is how it is intended.
206	Rep. Simmons	Asks if they can move HB 3388 on Friday, April 30.
210	Chair Witt	Inquires if the behavior the committee is trying to prevent should be contained in the elder abuse statute.
216	Rep. Rasmussen	Answers it seems like a relatively logical place to put it.
219	Rep. Simmons	Responds he is happy to proceed.
220	Chair Witt	Asks Rep. Deckert if the DOJ's amendments will be in LC form.
223	Rep. Deckert	Replies they will be available this afternoon or tomorrow morning.
227	Chair Witt	Closes public hearing on HB 3388 and opens work session on HB 3388.
<u>HB 3388 n WORK SESSION</u>		
231	Chair Witt	Announces he does not have a problem with conceptually amending HB 3388 and moving it to the full committee.
236	Rep. Simmons	Answers he thinks the DOJ's amendments and the n2 amendments are somewhat limited. States he would be happy to move them on to the full committee. Adds he does not support the n1 amendments.
240	Rep. Rasmussen	MOTION: Moves to ADOPT HB 3388-2 amendments dated 4/22/99.
		VOTE: 4-0
244	Chair Witt	Hearing no objection, declares the motion CARRIED.
256	Rep. Simmons	Asks how Chair Witt wants to proceed on HB 3388.
260	Chair Witt	Answers he would like to conceptually accept the DOJ's amendments into HB

		3388, and Rep. Deckert will have them in LC form for the full committee on Friday, April 30.
265	Rep. Rasmussen	MOTION: Moves to ADOPT HB 3388 conceptual amendments as laid out in the DOJ draft amendments dated 4/24/99, with the expectation that the LC version will be similar and can be formally incorporated into HB 3388 on Friday, April 30, in full committee.
		VOTE: 4-0
285	Chair Witt	Hearing no objection, declares the motion CARRIED.
288	Rep. Rasmussen	MOTION: Moves HB 3388 to the full committee with a DO PASS AS AMENDED and AS CONCEPTUALLY AMENDMED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye.
293	Chair Witt	The motion CARRIES. REP. DECKERT will lead discussion in full committee.
297	Chair Witt	Closes work session on HB 3388 and opens public hearing on HB 2735.
<u>HB 2735 n PUBLIC HEARING</u>		
302	Cody	Explains HB 2735.
315	Darrell Fuller	Lobbyist, Oregon Automobile Dealers Association (OADA). States that HB 2735 was introduced to foster economic growth, and it has done so. Presents the consensus n2 amendments (EXHIBIT C). Explains the conceptual changes made to the n2 amendments and supported by manufacturers and dealers: <ul style="list-style-type: none"> • Elimination of portion of HB 2735 that would have prohibited factory ownership of dealerships. • Addition of a section which would prohibit manufacturers from unfairly competing with their franchisees if they own a store in Oregon. • Stipulations for warrant services by manufacturers. • Modification of the manufacturer to audit a dealer's warranty repair work and compensation for dealer and consumer incentives.

		<ul style="list-style-type: none"> • Creation of grandfathering language for dealerships which are currently dual dealerships (single dealership location that has more than one franchise at the location). • Retention of boundaries established in the ñ2 amendments for the relevant market area.
360	Fuller	Explains section 9 of the bill regarding selling or transferring ownership of a dealership. Explains new language.
TAPE 46, A		
009	Thomas Gallagher	Lobbyist, Alliance of Automobile Manufacturers. Notes he agrees with everything Fuller has said. Explains that many of the changes in the ñ2 amendments regard the relationship between dealers and manufacturers. Reports there are significant changes going on in the automobile industry which are being driven by the consumer.
037	Gallagher	Notes the one thing people can deal with in law is the relationship between the dealer and the franchiser. Adds they support the amendments and will work with Fuller.
049	Larry Campbell	Lobbyist, General Motors. Believes the manufacturers have acted with good faith in these amendments and will support them.
056	Chair Witt	States it is good to see manufacturers and dealers getting along so well.
060	Gallagher	Remarks there will be more amendments. Suggests examining Fullerís amendments, since they fundamentally change a great part of HB 2735.
067	Chair Witt	Expresses they will look for the amendments in LC form on Wednesday, April 28.
077	Paul Hurd	Associate General Counsel, Freightliner Corporation. Reiterates the way trucks and cars are manufactured and sold is quite different. Adds they are asking that truck manufacturers be exempted from HB 2735. Presents the ñ4 amendments (EXHIBIT D) .
087	Chair Witt	Explains the ñ4 amendments are designed to exclude heavier vehicles from the franchise law.
093	Rep. King	Asks if the ñ4 amendments were discussed with the other parties to HB 2735.
095	Chair Witt	Answers yes.

100	John Brenneman	Lobbyist, Recreational Vehicle Industries. Explains they have been working with Fuller to exempt motor homes. Presents and explains the ñ3 amendments (EXHIBIT E) .
115	Chair Witt	Explains the ñ3 amendments will exempt the motor home industry from HB 2735.
128	Chair Witt	Closes public hearing on HB 2735.
133	Chair Witt	Asks Rep. Rasmussen and Rep. Simmons if they would like to hold HB 2735 until Wednesday, April 28, and adopt the amendments then, or adopt the amendments now.
135	Rep. Simmons	Responds he would like to see the LC form of the amendments first.
137	Chair Witt	Asks if this goes for the ñ3 and ñ4 amendments also.
137	Rep. Rasmussen	States she is comfortable with moving the ñ3 and ñ4 amendments.
139	Rep. Simmons	Notes there are still other amendments.
140	Rep. Rasmussen	Explains that sometimes with multiple amendments they ask LC to roll them up into one integrated amendment.
142	Chair Witt	Responds they will not go into work session on HB 2735 until Wednesday, April 28.
146	Cody	Clarifies that the ñ2 and the ñ3 amendments should be incorporated into Fullerís amendments.
148	Rep. Rasmussen	Answers it should be the ñ3 and the ñ4 amendments. Adds the ñ2 amendments are being revised.
150	Chair Witt	Explains the ñ3 and the ñ4 amendments should be incorporated into Fullerís amendments. Inquires if the ñ2 amendments were Fullerís amendments.
151	Rep. Rasmussen	Explains the ñ2 amendments is the original first set and are now hand engrossed.
155	Chair Witt	Comments the committee will hold a work session on HB 2735 on Wednesday, April 26. Opens public hearing on HB 2576.
<u>HB 2576 ñ PUBLIC HEARING</u>		

166	Pete Shepherd	Remarks he has been working with other parties to develop an anti-slamming proposal. Notes he feels this can be finished before the end of the week. Presents hand-engrossed 11 amendments (EXHIBIT F) to HB 2576.
184	Shepherd	Notes he is at the committee's disposal. Reiterates he is optimistic that they can come back with a consensus proposal.
192	Cody	Reports LC will have Shepherd's amendments ready for the hearing on Wednesday, April 28. Inquires if this is timely enough to get HB 2576 to the full committee by Friday, April 30.
197	Chair Witt	Responds if they can do the public hearing and work session on HB 2576 on Wednesday, April 28, it can be moved to full committee on Friday, April 30.
199	Rep. Rasmussen	Expresses concern about areas of non-agreement and whether these will be resolved by Friday. Asks Shepherd if they can come to consensus by Friday, April 30.
203	Shepherd	Answers he does not know the answer to that question. Adds they will know by Wednesday, April 28, whether they can reach an agreement.
209	Chair Witt	Asks who is engaged in this project.
211	Shepherd	States that GTE, Sprint, US West, and others have been involved. Notes the committee could make clear to everyone involved that agreements will either happen by Wednesday or not at all.
224	Chair Witt	States HB 2576 has a legitimate purpose in protecting consumers. Thinks it would be a disservice to the public not to put some protections into the law. States the committee would like to hear HB 2576 on Wednesday, April 28.
240	Rep. Rasmussen	Suggests hearing dual amendments so, if there are points which can not be brought to resolution... (unfinished thought)
243	Chair Witt	Suggests that those who have been working with Shepherd try to work out differences and bring them to the committee on Wednesday, April 30.
253	Rep. Rasmussen	Announces it is not the committee's intention to kill HB 2576 just because there are differences.
254	Chair Witt	Agrees with this, and notes they can always take it to full committee.
256	Shepherd	Emphasizes that everyone has worked hard on this project and in good faith.

260	Chair Witt	Remarks they need to expedite the process at this point.
262	Rep. King	Asks about the responsibility of the telecommunications company when they have a subcontractor vendor doing the slamming. Adds he does not see this clearly in HB 2576. Asks if it is on page 2, Section 2, paragraph 3, line 23, of HB 2576.
270	Shepherd	Asks if Rep. King is looking at the ñl amendments..
278	Rep. King	Answers he is.
280	Shepherd	Restates the question Rep. King asked earlier. Responds that the liability would lodge with the provider of the local or long-distance telecommunications service when they have not first received an affirmative, unambiguous, and verified order for service from the subscriber. Adds the operative language is on page 1, lines 23 and 24 of HB 2576.
297	Rep. King	Notes he does not quite understand.
300	Shepherd	Advises Rep. King to think of Section 2 as a list of independent ways a person can violate the proscriptions of the law. Reiterates that subsection (c) refers to the question Rep. King is asking.
313	Rep. King	Asks if that insulates the telecommunications company from the actions of the subcontractor.
316	Shepherd	Replies no, the telecommunications company is liable under this provision. Notes liability can be shifted in other sections of HB 2576.
325	Rep. King	Inquires how the provider gets paid back from the subcontractor.
329	Shepherd	Responds the providerís right to receive compensation from the subcontractor is provided in several places in HB 2576. Notes specific examples from HB 2576.
344	Rep. King	Comments this says "person," not "provider." Inquires if the telecommunications company would be considered a person in the statute.
349	Shepherd	Answers that is correct.
352	Chair Witt	Asks Shepherd to bring something back to committee on Wednesday.
360	Shepherd	States they will do their best.

362	Chair Witt	Closes the public hearing on HB 2576 and opens public hearing on HB 3556.
<u>HB 3556 ñ PUBLIC HEARING</u>		
376	Cody	Explains HB 3556.
TAPE 45, B		
004	Frank Regalado	Business Representative, International Union of Elevator Constructors. Testifies in support of HB 3556. Explains the elevator journeyman's license has been available since the 1950s in Oregon, and it has always been required before doing service on elevators. Adds their apprenticeship program is a process to obtain the license. Reports that in April 1997 it was determined that the license applies only to electrical work. Emphasizes they want to restore the license as it was.
009	Chair Witt	Clarifies there is an unintended loophole in the law which requires licensing to do electrical work on elevators, but does not require licensing for the mechanical work.
010	Regalado	Answers this is basically correct. Reiterates the original license was only valid for the electrical work.
012	Chair Witt	States he could do mechanical work on an elevator without a license.
013	Regalado	Answers yes.
015	Campbell	Lobbyist, National Electrical Contractors Association. Testifies in support of HB 3556. Reports the law regarding work on elevators was felt to be clear, but an Attorney General's opinion brought up questions about its intent.
020	Tim McAchran	Member, Electrical Elevator Contractors Board. Presents testimony in support of HB 3556 (EXHIBIT G). Cites his personal experience with the elevator journeyman license and the loophole being addressed.
040	McAchran	States the insurance industry recognizes that training in elevator maintenance is essential in order to minimize risk of loss. Outlines how the accessibility company was born out of the Americans with Disabilities Act (ADA) and insurance issues. Explains if a contractor used a DBA name which did not have the word "elevator," in it, they could purchase liability insurance without the need for training.
060	McAchran	Feels that allowing individuals to work on elevators without training or accreditation puts the public at risk.

078	Chair Witt	Asks if the fee portion of HB 3556 requires that the fee applies to limited elevator journeymen.
084	McAchrn	Answers that is correct. Adds his understanding that HB 3556 expands the license to include mechanical work, which it does not do now.
092	Regalado	Emphasizes the fee which Rep. Witt referred to is already in place.
096	Regalado	Remarks they were trying to keep things as simple as possible. Explains he supports HB 3556 and the ñ1 amendments (EXHIBIT H). thereto, but does not support the ñ2 amendments.
107	Campbell	Clarifies they are trying to put themselves back in the position before the Attorney Generalis letter eliminated the mechanical portion of the license. Believes the ñ2 amendments go far beyond what they are asking for.
110	Rep. King	Responds he does not have the ñ1 amendments.
113	Rep. Rasmussen	Clarifies the ñ1 amendments were handed out some time ago. Asks who brought the ñ2 amendments forward.
115	Chair Witt	Responds he anticipates hearing from them.
123	Cliff Doty	Thyssen Elevator Company. Reports he supports HB 3556 with the ñ1 amendments, but opposes the ñ2 amendments.
130	Richard Biggart	Officer, International Union of Elevator Constructors. Testifies he supports HB 3556 with the ñ1 amendments, but opposes the ñ2 amendments. States the majority of work done on elevators is not electrical. Feels it would be expensive and unwieldy to require multiple licensing as proposed in the ñ2 amendments.
155	Joe Brewer	Administrator, Building Codes Division. Presents testimony in opposition to HB 3556, but in favor of the ñ2 amendments (EXHIBIT I). Comments it is unsettling to think that anyone can work on elevators. Adds that the proponents intent could be served by amending the Elevator Safety Law and not the Electrical Safety Law.
177	Brewer	Notes the proposed language in the ñ2 amendments suggests that any electrical licensee would have to have mechanical training, even to work on just the electrical aspects of elevator equipment. Reports he believes the Elevator Safety Law should be amended.
196	Rep. Rasmussen	Asks if the ñ2 amendments are his.
199	Brewer	Replies he does not think he has any option. Notes the ñ2 amendments were

		well-intended. Adds they see a significant realignment of activities to have mechanical training required of all individuals who service electrical aspects of elevator systems.
208	Chair Witt	Asks if anyone wants to come up and enlighten the committee on Brewer's comments.
211	Regalado	Apologizes for the confusion. Comments he only saw the #2 amendments a couple of hours ago, and his immediate reaction was that there would be an intense fiscal impact. Reports he does not want more than one license.
224	Chair Witt	Closes public hearing on HB 3556 and opens work session on HB 3556.
<u>HB 3556 - WORK SESSION</u>		
236	Rep Simmons	States he is willing to stick with the #1 amendments.
238	Chair Witt	Remarks the miscommunication is unfortunate, but HB 3556 serves a real purpose. Adds he is happy with HB 3556 and the #1 amendments.
240	Rep. Simmons	MOTION: Moves to ADOPT HB 3556-1 amendments dated 4/16/99.
		VOTE: 4-0
244	Chair Witt	Hearing no objection, declares the motion CARRIED.
246	Rep. Simmons	MOTION: Moves HB 3556 to the full committee with a DO PASS AS AMENDED recommendation.
248	Rep. Rasmussen	Comments she is willing to move HB 3556 forward with the understanding that Brewer and the others will try to come to agreement.
253	Chair Witt	Explains he will ask Cody to inform Chair Hill that additional testimony on HB 3556 can be given on Friday, April 30. Adds, in the meantime, they will move HB 3556 today.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye.

256	Chair Witt	<p>The motion CARRIES.</p> <p>REP. KING will lead discussion on the floor.</p>
264	Chair Witt	Closes work session on HB 3556 and opens the public hearing on HB 3558.
<u>HB 3558 ñ PUBLIC HEARING</u>		
275	Cody	Explains HB 3558.
280	Burton Weast	Lobbyist, Oregon Association of Plumbing, Heating, and Cooling Contractors. Testifies in support of HB 3558. Notes that HB 3558 reduces the licensing requirements in Oregon instead of adding a new license. Explains plumbers were recently told they needed a license from the State Fire Marshal's office to do work in homes with liquid petroleum (LP) gas in them. Adds plumbers have historically done this type of work for many years.
305	Weast	Clarifies there was an old statute which required a license from the State Fire Marshal to work on anything involving LP gas. Explains there is no reason to require licensing of a plumber to do this work, with the exception of siting and installation of the actual LP tank. Presents ñ1 amendments (EXHIBIT J) and explains them.
343	Chair Witt	Notes he is disappointed they cannot pass HB 3558 without amendments.
346	Weast	Notes he is also disappointed.
349	Tari Glocar	State Fire Marshal's Office, representing the State Fire Marshal. Clarifies the ñ1 amendments are not intended to prohibit apprentices or journeymen plumbers from hooking up equipment to a propane cylinder. Adds they cannot hook up or install propane tanks. Notes the State Fire Marshal's Office is in support of moving HB 3558 forward.
367	Gary Wright	Lobbyist, Local 290, Plumbers and Pipefitters. States they support HB 3558.
372	Chair Witt	Closes public hearing on HB 3558 and opens work session on HB 3558.
380	Rep. Rasmussen	MOTION: Moves to ADOPT HB 3558-1 amendments dated 4/26/99.
		VOTE: 4-0

384	Chair Witt	Hearing no objection, declares the motion CARRIED.
386	Rep. Rasmussen	MOTION: Moves HB 3558 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye.
390	Chair Witt	The motion CARRIES. REP. KING will lead discussion in full committee.
400	Chair Witt	Closes work session on HB 3558 and adjourns meeting at 4:35 p.m.

Submitted By, Reviewed By,

Nancy Geisler, Jason Cody,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3388, written testimony and proposed ñ2 amendments, Rep. Ryan Deckert, 2 pp

B ñ HB 3388, DOJ draft amendments, Peter Shepherd, 25 pp

C ñ HB 2735, proposed consensus amendments, Darrell Fuller, 14 pp

D ñ HB 2735, proposed ñ4 amendments, Paul Hurd, 1 p

E ñ HB 2735, written testimony and proposed ñ3 amendments, John Brenneman, 1 p

F ñ HB 2576, proposed ñ1 amendments, Peter Shepherd, 9 pp

G ñ HB 3556, written testimony, Tim McAchran, 2 pp

H ñ HB 3556, proposed ñ1 amendments, staff, 1 p

I ñ HB 3556, written testimony and proposed ñ2 amendments, Joe Brewer, 7 pp

J ñ HB 3558, proposed ñ1 amendments, Burton Weast, 1 p