

**HOUSE COMMITTEE ON COMMERCE**

**SUBCOMMITTEE ON REGULATIONS**

**April 7, 1999 Hearing Room 350**

**3:00 p.m. Tape 32 - 34**

**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 3001 Public Hearing and Work Session**

**HB 2740 Public Hearing**

**HB 2734 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
<b>TAPE 32, A</b>		
006	Chair Witt	Opens meeting at 3:00 p.m. and opens public hearing on HB 3001.
<b><u>HB 3001's PUBLIC HEARING</u></b>		
014	Jason Cody	Explains HB 3001.
017	Rep. Susan Morgan	District 56. Testifies in support of HB 3001. Notes that HB 3001 allows the Auto Dealers Association to develop a training and certification program for its

		members. Reports that HB 3001 is a consumer protection bill which will increase professionalism and integrity in the automobile industry.
026	Rep. King	Comments that Monty King (the next speaker) is his brother, but this will not affect his impartiality.
040	Monty King	Executive Director, Oregon Independent Auto Dealers Association (OIADA). Presents testimony in support of HB 3001( <b>EXHIBIT A</b> ). Remarks that HB 3001 is a consumer protection bill. Explains there is a difference between OIADA members and nonmembers because of the education members receive.
078	M. King	Believes newly-licensed used car dealers will benefit from the continuing education process. Explains that government does not provide the education required in HB 3001. Adds government certifies the programs. Comments there is very little fiscal impact because existing staff and resources will be utilized for the approval process of the educational programs.
110	Rep. Simmons	Asks about the cost of training.
113	M. King	Answers this depends on costs to provide the training. Cites costs in different areas of the United States and Canada. Explains they just want a fair return for developing and continuing the programs.
128	Rep. Simmons	Asks if the training would be paid for with fees.
129	M. King	Responds it would be paid for by the dealers.
131	Rep. Simmons	States he appreciates industries policing their own ranks. Asks what the benefit is to the consumer from HB 3001.
136	M. King	Explains there will be no excuse for not knowing about industry requirements which affect consumers.
179	Brian Doherty	Lobbyist, Insurance Auto Auctions. Presents written testimony and proposed amendments to HB 3001 ( <b>EXHIBIT B</b> ). Explains that his organization is a salvage auto auction yard Adds the primary buyers are the automobile dealers who are proposing HB 3001. Explains that ( <b>EXHIBIT B</b> ) would add an exemption for national auction companies. Stresses that most of the education involved in HB 3001 does not fit the type of sales done by auction yards to automobile dealers.
206	Chair Witt	Asks if ( <b>EXHIBIT B</b> ) goes into Section 2, paragraph 2 of HB 3001.
210	Doherty	Answers yes, on page 1, line 21, adding a section (e).

220	Chair Witt	Clarifies the location of <b>(EXHIBIT B)</b> . States he assumes that <b>(EXHIBIT B)</b> is amenable to the people who brought HB 3001.
223	Doherty	Answers yes.
225	Rep. Simmons	Asks if <b>(EXHIBIT B)</b> will be drafted by Legislative Counsel.
237	Chair Witt	Answers the subcommittee will continue to take testimony. Adds he does not have a problem with the language in <b>(EXHIBIT B)</b> being adopted into HB 3001.
240	Mark Gardner	Special Counsel, Attorney General Hardy Myers. Testifies in support of HB 3001 <b>(EXHIBIT C)</b> . Announces the Department of Justice (DOJ) believes HB 3001 will benefit automobile dealers, consumers, and DOJ. Notes that HB 3001 should reduce the number of complaints received by DOJ from consumers.
265	Rep. Simmons	Inquires how many complaints DOJ gets regarding new and used car dealers.
270	Gardner	Responds DOJ does keep separate account of new and used car dealer complaints.
272	Peter Shepherd	Assistant Attorney General, Financial Fraud, Consumer Protection Section, DOJ. Points out that complaints involving new car dealers selling used cars and used car dealers selling used cars are tracked separately. Adds this combination is always in the top 10 of the most frequently reported consumer complaints received by DOJ. Explains he does not know the exact figures.
284	Rep. Simmons	Asks if DOJ could provide that information to the subcommittee.
290	Shepherd	Answers they would be happy to supply this information.
292	Rep. Simmons	Inquires if the complaints involve a particular area of car sales.
301	Shepherd	States DOJ receives complaints in many areas, and he cannot single out one particular area. Comments that some complaints will be headed off by the instructional requirements of HB 3001. Comments on "bushing."
330	Rep. Simmons	Inquires if this means the customer's previous car is sold.
334	Shepherd	Answers yes. Adds that sometimes the car has been sold or the dealer has retained the down payment, and the customer then has difficulty getting it back.
345	Rep. Simmons	Notes there are many instruction requirements in HB 3001. Asks if this instruction can be accomplished in the time specified in the Staff Measure Summary (SMS).

357	Shepherd	Answers that the status quo does not require any instruction at all, and any instruction is better than none.
363	Chair Witt	Asks if someone fails the test, can they come back and take the course again.
369	M. King	Comments that the complete education system proposed in HB 3001 would take a long time to accomplish. Clarifies that at least the car dealers will know they have responsibilities in these areas. Reports that a number of people who have dealers licenses in Oregon do not know how to read. States that even though they cannot read, they can hear the information presented.
397	Chair Witt	Suggests the provision of printed material to be taken from class as a resource to fall back on later.
406	M. King	Notes there is a lot of information available in other states' programs.
<b>TAPE 33, A</b>		
009	Chair Witt	Points out that Shepherd and M. King testified in Judiciary Committee on a bill which appropriates money to set up a mediation dispute resolution method for those acquiring used cars. Notes this is an attempt to avoid litigation, misunderstanding, and consumer problems. Points out the benefits of accomplishing solutions through education and cooperation instead of complaints and litigation.
018	Rep. Rasmussen	Asks for clarification of M. King's statements about some people not being able to read.
027	M. King	Responds to Rep. Rasmussen.
032	Rep. Rasmussen	Remarks this may be true on an individual basis.
037	M. King	Further clarifies his statement.
057	Chair Witt	Comments on the value of education.
061	Rep. Rasmussen	States she is sensitive to the issue of ethnic classification.
063	Chair Witt	Answers he appreciates her concerns.
068	Rep. King	Clarifies comments.
073	Darrell Fuller	Regulatory Affairs Director, Oregon Automobile Dealers Association (OADA).

		Testifies in support of HB 3001. Notes that OADA deals with new car dealers, who are exempted from HB 3001 because they have a voluntary component of continuing education.
089	Rep. Simmons	Asks if the new car dealers are exempted from HB 3001.
091	Fuller	Replies that motor vehicle dealers with a franchise are exempted from HB 3001.
093	Chair Witt	Reports that in HB 3001, page 1, Section 2, paragraph 2(a), this exemption is specified.
095	Fuller	Comments that franchised new car dealers in OADA can have their employees trained at an academy in Maryland.
106	Vince Powell	President, Oregon Independent Auto Dealers Association (OIADA). Notes that OIADA wants to provide education for auto dealers to ensure they are doing the best they can for their customers. Explains things have become more complicated in the automobile industry, and a dealer must be current.
139	Powell	Adds he believes HB 3001 will help dealers stay on top of the industry. Feels that dealers who cannot read can still learn by listening and watching.
166	Chair Witt	States he will ask three people to come forward at a time, in the interest of saving time.
170	Ted Sims	Attorney, OIADA. Testifies in support of HB 3001. Notes there is a qualitative and quantitative difference in dealers who are OIADA members and nonmembers. Explains that some nonmember dealers are completely ignorant of the rules. Comments that sometimes mistakes are passed on to other dealers.
202	Sims	States that any kind of education provided to the dealers is worthwhile. Adds that HB 3001 is a good first step in this direction.
219	Regina Covington	Owner, Dealer Title Service. Testifies in support of HB 3001. Comments that the Department of Motor Vehicles (DMV) has many time constraints that dealers must meet to be in compliance with state and federal laws. Agrees that education for auto dealers is a good idea.
242	Don Lulay	Member, Executive Committee, Dealers Association. Testifies in support of HB 3001. Believes that education can simplify problems for automobile dealers.
269	Rep. Simmons	Remarks the Attorney General's Office mentioned the complaints they receive are not isolated to any segment of the automobile industry. Notes that in HB 3001, franchised dealers are being exempted. Asks if including them would cut down on consumer complaints.

278	Sims	Notes he does not deal with new cars, so can only speculate.
282	Lulay	Reports that some of the complaints he receives are about new car dealers. Comments there are not a lot of new car stores, but they sell a lot of automobiles.
295	Covington	Notes new car franchise dealers get better training than used car dealers because of franchise requirements. States she is not sure it is feasible to apply this bill to new car dealers.
308	Rep. Simmons	Adds there is still room for improvement because of the complaints about new car dealers. Notes that wording in a bill can be changed.
322	Rep. King	Asks if continuing education for independent automobile dealers would be substantially different from that of new car dealerships
337	Lulay	Answers that most independent dealers are owner/operators, and new car dealerships have a large number of people involved. Notes the main issue is that education is needed to clean up the automobile industry.
356	Chair Witt	Comments that OIADA brought this bill to address a problem through education. Notes this is where the subcommittee should focus.
365	Harry Carter	Car Dealer, member of OIADA. Testifies in support of HB 3001. Explains OIADA members want to be educated so they can do a better job. Notes that continuing education and the stipulation for new dealers in acquiring their licenses is a good idea.
394	M. King	Reports that new car dealerships will send management to the training sessions.
<b>TAPE 32, B</b>		
008	Chair Witt	States the important thing is to build a good program.
010	M. King	Responds that if a program is good, people will attend.
012	Powell	Comments dealer licensing is usually renewed yearly. Adds there is a bill proposing that licensing be renewed every three years with six hours of education required per license renewal. Notes they want to ensure they can keep people well-informed within these time limits.
022	Chair Witt	Responds the subcommittee will address the education requirements when they get to the bill.
029	Rep. Simmons	Indicates six hours of education per year are now required for license renewal,

		and if renewal goes to every three years, it may be appropriate to increase the education hours.
032	Chair Witt	Closes the public hearing on HB 3001 and opens a work session on HB 3001.
<b><u>HB 3001 - WORK SESSION</u></b>		
036	Rep. King	Inquires if the subcommittee should consider saying "per annum" instead of "for renewal."
038	Chair Witt	Reports he would prefer to wait until the subcommittee hears the bill which addresses education requirements.
042	Rep. Simmons	Expresses he is concerned about the unresolved question of the renewal period, and feels it should be resolved before adoption of the ñ1 amendments.
050	Rep. King	States they could still address this issue at the full committee.
061	Chair Witt	Asks how the subcommittee wants to handle HB 3001 and explains options.
068	Rep. Simmons	Notes that HB 3001 could be amended to say the three-year renewal will not apply and six hours per year of continuing education would be required.
072	Rep. Rasmussen	Inquires where they are dealing with the three-year renewal.
074	Chair Witt	Responds there is a separate bill scheduled to be heard today which deals with this issue.
076	Rep. Rasmussen	Comments it may be possible to bring the two bills together into one.
077	Chair Witt	Answers this would be difficult to do. Suggests closing the work session on HB 3001, having a public hearing on the other bill, then coming back to work session on both bills.
080	Chair Witt	Closes work session on HB 3001 and opens public hearing on HB 2740.
<b><u>HB 2740 ñ PUBLIC HEARING</u></b>		
100	Cody	Explains HB 2740.
106	Fuller	Testifies in support of HB 2740 ( <b>EXHIBIT D</b> ). Explains that if someone buys insurance from the dealer when renting a vehicle, any damage to the vehicle is

		covered by that dealer. Notes that if someone does not buy insurance, and their personal automobile insurance includes rental car coverage, that insurance is liable if the person is responsible for an accident in the rental vehicle.
126	Fuller	Reports that both personal insurance companies and vehicle dealerships have a clause which says if other insurance is available, the other policy should cover it. States the courts have said that both insurance policies will pay for damages incurred in a rental car. Notes this does not resolve which insurance is primary, and OADA believes the driver's insurance should be primary.
147	Fuller	Remarks the second part of the bill deals with loaner vehicles provided while a primary car is being repaired. Notes this is covered in the bill amendments <b>(EXHIBIT E)</b> . Notes OADA believes the primary insurance should transfer to the loaner vehicle while the primary vehicle is being repaired. Explains this law would only apply to cars rented as part of a business.
174	Fuller	Believes the law should stipulate that the person who causes an accident and their insurance company should be responsible for the accident. Reports that, if the limits of the insurance policy are exceeded, the dealer's policy will cover excess insurance. Comments that HB 2740 does not protect the car dealers from the consequences of negligence.
193	John Powell	Lobbyist, State Farm Insurance Companies. Testifies in opposition to HB 2740. Explains that <b>(EXHIBIT E)</b> would require all automobile policies to cover rental cars, and all business activity would also be covered. Explains the premium difference would be shifted to all policyholders as opposed to being paid by choice.
226	Powell	Comments there is no limitation saying that HB 2740 only applies if a person is renting a vehicle on vacation, etc. Suggests one could rent an additional car, and the liability coverage from their personal insurance would apply.
250	Chair Witt	Clarifies that if someone rents a car on business, HB 2740 states that their personal insurance will transfer to the rental car.
259	Powell	Answers the business policy which insures a business car would apply and provide non-owner coverage.
266	Rep. King	Comments there is no difference in the price paid for insurance at a rental car company whether a person is insured or not. Notes that HB 2740 requires the personal insurance company to pay half and the rental car insurance for which full price was paid to only pay half.
286	Powell	Replies if someone purchases a collision damage waiver at a rental dealer and the car is damaged, they can invoke the waiver at that time. Adds if a person purchases liability protection, that insurance would be primary if the person has another insurance policy. States if someone did not purchase liability, but had personal insurance, liability would be covered.



316	Rep. King	Clarifies Powell said he was not sure how this worked.
320	Powell	Answers he does not how rental car policies work. Adds if it was a full coverage policy, including liability, this would be primary coverage.
336	Rep. King	States that if Fuller has any knowledge of this, he might want to ask him the same question.
340	Powell	Answers he will be able to give a more comprehensive analysis later.
344	Chair Witt	Indicates this will be fine.
350	Rep. Simmons	Asks if Fuller could comment on requiring all auto insurance holders to have provisions covering rental cars.
358	Fuller	States he disagrees with that. Comments when someone rents a car, they are offered an insurance policy for a fee to cover that vehicle. Adds if the person buys that insurance, the rental company is fully liable for any damage. If the person elects not to purchase that insurance, they are responsible for the vehicle. Reports if someone has an accident and has rental car coverage as part of their personal insurance policy, that insurance policy will pay for half of the loss.
<b>TAPE 33, A</b>		
004	Fuller	Explains if a loaned vehicle is given to you because your primary vehicle is being repaired, the primary coverage transfers to the vehicle you are using as a primary vehicle while your vehicle is being repaired.
018	Rep. Simmons	Reiterates insurance applies to loaner cars used while someone's car is being repaired, but does not apply when renting a car unless the person has a rider or purchases rental car insurance.
021	Fuller	Notes that unless someone's insurance policy specifically covers rental cars, they would not be liable. Comments if someone is on business and rents a car, if that business has insurance covering vehicles, it would cover the rental car.
040	Chair Witt	Asks if this would apply to someone flying somewhere on a personal matter.
042	Fuller	Answers yes.
050	Rep. Simmons	Asks if this would apply to people insured in Oregon who were driving out of state.
052	Fuller	Replies he does not know.

059	Chair Witt	Closes public hearing on HB 2740 and opens public hearing on HB 2734.
<b><u>HB 2734 ñ PUBLIC HEARING</u></b>		
073	Fuller	<p>Presents testimony in support of HB 2734 (<b>EXHIBIT F</b>). Explains that HB 2734 makes three changes to licensing auto dealers in Oregon:</p> <ul style="list-style-type: none"> <li>• Changes the licensing period from one to three years.</li> <li>• Increases the bond required to be a motor vehicle dealer.</li> <li>• Removes the requirement that a license applicant get a signature from a local government official indicating the dealer's location of business is properly zoned.</li> </ul>
123	Shepherd	Remarks he has concerns regarding the interaction between the bond requirement and renewal of the dealer's certificate. Comments that HB 2734 requires a dealer to show DMV a bond every three years instead of every year. Explains the lengthening of the renewal period dilutes the bond coverage.
166	Chair Witt	Asks if Fuller has agreed to work with the DOJ to arrive at an amendment to address this concern.
169	Shepherd	States this is correct.
173	Rep. King	Asks Shepherd to explain the mechanics of how the bond is diluted by one-third when the renewal time is increased.
177	Shepherd	Explains this concept with an example.
203	Rep. Simmons	Inquires how much a \$20,000 bond costs today.
208	Shepherd	Answers it costs approximately \$300.
210	Rep. Simmons	Explains dealer's figures are showing \$400.
214	Shepherd	Says he can accept that.
216	Rep. Simmons	Inquires if it would be appropriate to increase the bond amount shown in HB 2734.
220	Shepherd	Answers yes. Comments they want to provide greater protection for consumers. States that when a dealer closes a business, the only protection available for consumers, other dealers, and claimants against the dealer is the bond. Notes they are pleased to see any increase in the bond because it represents an

		improvement over the status quo.
246	Rep. Simmons	Indicates that, regarding a vehicle dealer certificate, HB 2734 refers to anyone in the car business. Notes it seems inadequate for all of these people to put up bonds.
254	Powell	Explains he does not think there are a great number of claims filed. Notes that a bond serves as a threshold at which people can get into a particular business. Adds people need to show an asset base in order to enter a business.
291	Chair Witt	Clarifies that an asset base is necessary should the bond company have to pay off on the bonding.
293	Powell	Responds that is correct.
295	Rep. Simmons	Comments he wants to ensure they are being fiscally responsible and cognizant of the demands that might be placed on a dealer who would need to be covered by the bonds.
301	Shepherd	Remarks there would be some dealers who could not meet the asset base if the bond were increased to cover the failure of a dealership. Notes they have proposed another bill which will provide a higher level of protection to consumers and avoid the problem of dealers whose asset base is not sufficient to support a high enough level of bond.
320	Chair Witt	Asks if a way of dealing with this concern is to require dealers to purchase \$20,000 bonds annually and submit evidence of that annually.
326	Shepherd	Responds yes.
328	Powell	Agrees that making an annual bond requirement is the simplest approach. Reiterates there are other areas of consumer purchasing where there is no protection against insolvency.
334	Chair Witt	Inquires if Shepherd and Powell would be willing to work on an amendment to address this concern.
345	Powell	Comments they had agreed not to hold the bill up if the committee preferred to move it today. Adds they could prepare the amendment as the bill passes over.
360	Chair Witt	Answers he is reluctant to move the bill until this concern is addressed.
366	M. King	Testifies in support to HB 2734. Presents 3 amendments ( <b>EXHIBIT G</b> ) and explains them.

**TAPE 34, A**

001	Don Miner	Lobbyist, Oregon Manufactured Housing Association (OMHA). Testifies in support of HB 2734. Notes that OMHA concurs with the increase of the dealer bond and believes it should remain cumulative. Explains OMHA has concerns about putting people out of business whose asset base is not strong enough to support a large bond. States a better way of dealing with consumer losses is enhanced enforcement by DMV and DOJ.
029	Rep. Simmons	Asks how large a bond would a large automobile dealer normally carry.
031	Miner	Answers that all dealers in Oregon carry a \$15,000 bond, without regard to their size.
033	Rep. Simmons	Inquires if some dealers carry larger bonds.
034	Miner	Responds he does not believe so. Adds that if a dealer has a \$15,000 bond and there is a \$10,000 claim against the bond, the dealer is immediately out of business unless they restore that bond.
045	Kelly Taylor	Department of Transportation, representing DMV. Submits prepared statement <b>(EXHIBIT H)</b> . Comments they are concerned about some of the language in HB 2734. Proposes amendments to address these concerns. Reports that DMV is in middle of the Year 2000 transition, and suggests a later operative date than that proposed in HB 2734.
092	Rep. Simmons	Inquires about the impact of the Fiscal Analysis <b>(EXHIBIT I)</b> of HB 2734. Asks if there are the same number of dealers renewing regularly, would the revenue stay the same over time.
096	Taylor	Answers no, because instead of collecting annually, the DMV would only collect once and would not have any revenue for the next two years.
100	Chair Witt	Inquires if the fee is the same dollar amount under HB 2734.
102	Taylor	Responds yes, and they would only be collecting it once in three years instead of three times in three years, so it would be a 2/3 loss of revenue. Explains they would like some transition language regarding the renewal period.
108	Rep. King	Asks if their expenses fall commensurate with the loss of revenue, or do the renewal fees support other operations of the DMV.
110	Taylor	Responds she does not know exactly, but can obtain that information.
113	Rep. King	Asks if there is any ongoing service work that relates back to the license fee.

118	Taylor	Responds yes. Adds that processing paperwork involves clerical staff checking that the forms are completed correctly. Notes that ongoing services involve following up on complaints from consumers and auditing. Adds there not enough investigators to cover all of the dealers.
132	Chair Witt	Closes public hearing on HB 2734. Notes that the other bills set for today's meeting will be heard in the near future.
145	Chair Witt	Adjourns meeting at 5:12 p.m.

Submitted By, Reviewed By,

Nancy Geisler, Jason Cody,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 3001, written material, Monty King, 4pp**

**B ñ HB 3001, letter and proposed amendments, Brian Doherty, 2 pp**

**C ñ HB 3001, letter, Mark Gardner, 1 p**

**D ñ HB 2740, written testimony, Darrell Fuller, 2 pp**

**E ñ HB 2740, proposed ñ1 amendments, staff, 4 pp**

**F ñ HB 2734, written testimony, Darrell Fuller, 2 pp**

**G ñ HB 2734, proposed ñ3 amendments, Monty King, 1 p**

**H ñ HB 2734, written material, Kelly Taylor, 1 p**

**I ñ HB 2734, Fiscal Analysis, staff, 1 p**