

**HOUSE JUDICIARY COMMITTEE ON CIVIL LAW**

**April 13, 1999 Hearing Room 357**

**1:00 p.m. Tapes 101 - 102**

**MEMBERS PRESENT: Rep. Lane Shetterly, Chair**

**Rep. Max Williams, Vice-Chair**

**Rep. Judy Uherbelau, Vice-Chair**

**Rep. Vic Backlund**

**Rep. Randall Edwards**

**Rep. Kathy Lowe**

**Rep. Vicki Walker**

**Rep. Larry Wells**

**Rep. Bill Witt**

**STAFF PRESENT: Aaron Felton, Counsel**

**Nancy Richards, Administrative Support**

**MEASURE/ISSUES HEARD: HB 3572 - Work Session**

**HB 3430 - Public Hearing**

**HB 2311 - Public Hearing**

**HR 3 - 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 101, A**

004	Chair Shetterly	Calls meeting to order at 1:10 p.m.
<b><u>HR 3 n PUBLIC HEARING</u></b>		
008	Counsel Felton	HR 3 urges observance of Day of Acknowledgment to recognize discriminatory history of state and plan toward future of racial equality.
011	<b>Rep. Anitra Rasmussen</b>	<b>State Representative, House District 11</b> Testifies in support of HR 3. Discusses the intent of HR 3. Explains who worked on the creation of HR 3.
046	Chair Shetterly	Closes public hearing.
<b><u>HR 3 n WORK SESSION</u></b>		
048	<b>Rep. UHERBELAU:</b>	<b>MOTION: Moves HR 3 be sent to the floor with a BE ADOPTED recommendation.</b>
052	Rep. Lowe	Expresses her support of HR 3.
057	Rep. Witt	States that even with passage of HR 3, positive contributions of Oregonis pioneers should not be ignored.
		<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</b> <b>EXCUSED: 1 - Edwards</b>
	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>  <b>REP. RASMUSSEN will lead discussion on the floor.</b>
081	Counsel Shetterly	Closes work session.
<b><u>HB 3430 &amp; HB 2311 PUBLIC HEARING</u></b>		

091	Counsel Felton	HB 2311 modifies statute of repose for product liability actions. ñPresents the -2 amendments ( <b>EXHIBIT A</b> ). HB 3430 modifies statute of repose for actions against manufacturer of commercial products.
132	<b>Linda Eyerman</b>	<b>Oregon Trial Lawyers Association (OTLA)</b>  Testifies and submits written testimony in support of HB 2311 ( <b>EXHIBIT B</b> ). Discusses the "the statute of ultimate repose" law. States that 32 states offer no protection for manufacturers of defective products. HB 2311 builds flexibility into Oregon law by allowing legal claims to be brought against manufacturers of defective products any time during the "useful life" of the product. Explains other bills that are related to HB 2311 that have been submitted this legislative session. Relates the story of Steven Sharp regarding defective equipment. Relates the story of Rebecca Ledwith who was severely burned because of defective equipment. States that a consumer expects a purchased product to be safe. Explains what HB 2311 offers for product safety.
397	Rep. Uherbelau	Asks about Idaho and Washingtonís laws concerning the description of the "useful life" of a product.
405	Eyerman	Explains what indicates a productís "useful life".
434	Rep. Witt	Asks about the sale of a defective product from another state to a dealer in Oregon and the dealerís involvement in a lawsuit from injuries received because of the defective product.
<b>Tape 102, A</b>		
006	Eyerman	Explains the process of making claims against the manufacturer per current law.
016	Rep. Witt	Asks about who would be responsible for a defective product in light of statute of repose.
022	Eyerman	Explains who the claim would be filed against.
031	Rep. Witt	What if a service dealer works on the product which causes the accident or death?
042	Chair Shetterly	States that the liability would depend on the whether the product was defective or the repair on the product made it defective.
047	Eyerman	Discusses the circumstances concerning the defective product that would determine the liability.
057	Rep. Witt	Asks if a repair service could be liable for defective products.

067	Eyerman	States that the eight-year "useful life" guide for products is absolute.
068	Chair Shetterly	Gives an example to explain who would be liable for the defective product.
081	Rep. Uherbelau	HB 2311 states that liability would apply to the manufacturer unless someone intervenes with the workmanship of the product.
088	Chair Shetterly	States that HB 2311 would apply only to the first purchaser of the product.
090	Rep. Wells	Asks about the definition of "what a safe-life is" in HB 2311 in comparison to HB 3430. Discusses a case where an injured person did not follow the product's safety directions for use given by the manufacturer for operation.
138	Eyerman	States that farm equipment is not expected to last only 8 years. Explains the ñ2 amendment to HB 2311 in relationship to the Jesse Williams v. Phillip Morris case in Multnomah County.
207	<b>Jim Coon</b>	<b>Oregon Trial Lawyers Association (OTLA)</b>  Testifies in support of HB 3430. Discusses the Jesse Williams v. Phillip Morris case regarding admissible evidence. Explains why OTLA supports HB 3430.
260	Rep. Uherbelau	Asks about a person's own liability concerning the choice to keep smoking with the knowledge that it could kill you.
282	Coon	Explains how HB 3430 affects the tobacco claims. Discusses how tobacco companies promoted a tobacco product known to be harmful.
316	<b>Nadine Jelsing</b>	<b>International Planning and Policy for the alliance for Lung Cancer Advocacy, Support, and Education (ALCASE)</b>  Testifies and submits written testimony in support of HB 2311 ( <b>EXHIBIT C</b> ). Discusses the current Oregon law which denies justice for smokers.
357	<b>Nancy Bennett</b>	<b>American Cancer Society</b>  Testifies and submits written testimony in support of HB 2311 ( <b>EXHIBIT D</b> ). Explains how cancer starts in the body. Discusses the attitude of youth regarding smoking and the later effects of cancer.
404	<b>Brad Higbee</b>	<b>Private Attorney</b>  Testifies in support for HB 3430 and HB 2311. Discusses the circumstances of various court cases regarding defective products.
<b>Tape 101, B</b>		

040	Higbee	Discusses the recourses that companies have against lawsuits over defective products. Explains the safeguards in HB 3430 concerning safety standards for manufactured products. States that HB 3430 causes the "useful life" of the product to be proven and to prove the product was defectively designed.
072	<b>Lana Butterfield</b>	<b>SAFECO Insurance Company</b>  Testifies in opposition of HB 3430. Introduces colleague Tom Kranovich.
077	<b>Tom Kranovich</b>	<b>SAFECO Insurance Company</b>  Testifies and submits written testimony in opposition to HB 3430 and HB 2311 ( <b>EXHIBIT E</b> ). Discusses the statute of ultimate repose that places a time limit on a manufacturer being legally responsible for an injury. Discusses the problems with HB 3430 and HB 2311 concerning the statute of ultimate repose and the "useful life" of a product. Explains the complexity of disclosing safety for manufactured products. States that passage of these bills leads to increased costs of products. Explains what "useful life" means concerning manufactured products.
246	Rep. Uherbelau	Asks about the eliminating the language in HB 3430 concerning "ultimate repose".
252	Kranovich	Explains why it is important to have a statute of ultimate repose.
261	Rep. Walker	Why is it good social policy to have a statute of ultimate repose? What states do not have a statute of ultimate repose?
270	Kranovich	I do know what the laws in other states have ultimate repose. Discusses the social policy concerning the time line on a defective product claim. States that of the 50 states, Oregon's law is the third most restrictive, in terms of the special protection which it provides for manufacturers of defective products.
298	Rep. Wells	Asks about the effect of ultimate repose on the aviation industry.
307	Kranovich	Discusses liability for airline manufacturers regarding the federal statute of ultimate repose.
339	Rep. Uherbelau	States that the federal law of ultimate repose had to do with the marketing of products.
362	Kranovich	Discusses the cost of manufacturing a safe product within the state of Oregon for small manufacturers.
382	Rep. Uherbelau	Who should bear the cost of making safe products?
411	Kranovich	Explains the added cost to products to cover any liability. HB 3430 creates an

		onerous burden for the small manufacturers of Oregon concerning safe products shipped out of state.
477	Rep. Uherbelau	States that an burden is placed on the victim of the defective product.
448	Rep. Lowe	Do you represent manufacturers that ship products outside of Oregon?
490	Kranovich	Yes, I could possibly end up representing them. SAFECO insures products shipped outside of Oregon.
<b>Tape 102, B</b>		
028	Rep. Lowe	Asks about defective products sent out of Oregon to states without statutes of ultimate repose.
036	Kranovich	Explains the judgment process concerning out-of-state claims made toward Oregon manufacturers.
039	Rep. Lowe	Would citizens of Oregon be limited in liabilities against Oregon manufacturers?
042	Karnovich	Discusses the concern of SAFECO with HB 3430 and HB 2311 concerning the stature of repose.
052	<b>Betsy Earls</b>	<b>Associated Oregon Industries (AOI)</b> Testifies in opposition to HB 3430 and HB 2311. Discusses AOI's concern with HB 3430 and HB 2311 concerning the concept of replacing statute of ultimate repose with the concept of useful safe life.
077	Rep. Lowe	Asks about a 20-year statute of ultimate repose.
080	Earls	A definite number of years for a limit on repose is preferred. Explains that the legislature's decision to have an eight year statute was a balancing process between manufacturers and consumers
084	Rep. Lowe	Asks about defective manufactured products from Oregon sent to states without a statute of repose.
097	Earls	Explains the effect of out-of-state liability claims on Oregon manufacturers.
104	Rep. Witt	What is the public policy for determining eight years for a statute of repose (S/R) when some products are designed to last only three years?

108	Earls	The eight years for S/R of a product is arbitrary. States that the legislature decided on a level of exact certainty for manufacturers of all products which resulted in an eight-year limit of repose.
129	Chair Shetterly	States that eight-year limit reduces litigation.
142	Rep. Walker	Asks about the fairness of previous liability cases not able to collect on their injuries because they did not have the protection of HB 3430 and HB 2311.
156	Earls	States that the setting of exactly eight years for the S/R of a product will have to eliminate some of the old liabilities.
160	Rep. Backlund	Has there been a widespread concern over Oregon's statute of repose?
167	Kranovich	I am aware of only a few cases which were addressed today.
175	Rep. Uherbelau	States that there aren't thousands of product liability cases in Oregon.
197	Chair Shetterly	Closes public hearing.
<b><u>HB 3572 - WORK SESSION</u></b>		
204	Counsel Felton	HB 3572 directs State Court Administrator to transfer \$200,000 from trial and hearing fees to Oregon Law Commission for continuous law revision program. Explains the -2 amendments to HB 3572 ( <b>EXHIBIT F</b> ).
216	<b>Karen Hightower</b>	<b>State Court Administrator's Office, Department of Justice (DOJ)</b> Asks if the -2 amendment will be a permanent part of HB 3572.
226	Chair Shetterly	Explains how Ways and Means will address the -2 amendment.
226	<b>Rep. Williams</b>	<b>MOTION: Moves to ADOPT HB 3572--2 amendments dated 04/13/99.</b>
		<b>VOTE: 9-0</b> <b>AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</b>
	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>

236	Rep. Williams	<b>MOTION: Moves HB 3572-2 to the WAYS &amp; MEANS COMMITTEE with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 9-0</b> <b>AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</b>
	Chair Shetterly	<b>The motion CARRIES.</b>
243	Chair Shetterly	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. EDWARDS to BE RECORDED as voting AYE on HR 3 as a DO PASS recommendation.</b>  <b>VOTE: 9-0.</b>
246	Chair Shetterly	Adjourns meeting at 2:53 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,

Administrative Support Counsel

**EXHIBIT SUMMARY**

**A - HB 2311, Proposed -2 amendments, Counsel, p. 2**

**B - HB 2311, Written testimony, Linda Eyerman, p. 5**

**C - HB 2311, Written testimony, Nadine Jelsing, p. 1**



**D - HB 2311, Written testimony, Nancy Bennett, p. 2**

**E - HB 3430 & HB 2311, Written testimony, Tom Kranovich, p. 2**

**F - HB 3572, Proposed -2 amendments, Counsel, p. 1**

**G - HR 3, Written testimony, Eugene Organ, p. 1**