

**HOUSE JUDICIARY COMMITTEE ON CIVIL LAW**

**April 06, 1999 Hearing Room 357**

**1:00 p.m. Tapes 92 - 95**

**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: HJR 52 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 92, A		

004	Chair Shetterly	Calls meeting to order at 1:12 p.m.
<b><u>HJR 52 PUBLIC HEARING</u></b>		
009	Counsel Felton	HJR 52 proposes amendment to Oregon Constitution to allow political subdivisions to zone sexually oriented businesses. The ñ2 amendments clarify that the definition of "sexually oriented businesses" includes nude dancing and entertainment ( <b>EXHIBIT A</b> ).
028	<b>Rep. Rob Patridge</b>	<b>State Representative, House District 50</b>  Testifies in support of HJR 52 ( <b>EXHIBITS B &amp; C</b> ). Discusses why HJR 52 was proposed. States that only Oregon and Hawaii do not allow zoning of adult businesses. Discusses the court case, <i>Young v. American Mini-Theatres</i> regarding location of sexually oriented businesses. Discusses two previous Ballot Measures regarding the location of sexually oriented businesses. Explains the ñ2 amendment to HJR 52. States which court cases are relevant to HJR 52 and where to find information on these cases. Explains that HJR 52 is about zoning, not the prohibition of sexually oriented businesses.
140	<b>Rep. Randall Edwards</b>	<b>State Representative, House District 15</b>  Testifies in support of HJR 52. States that the intent is not to prohibit these businesses, but to control where they can be located. Expresses his support of HJR 52.
191	Chair Shetterly	Do zoning ordinances have perimeters within the city limits for the location of sexually oriented businesses?
198	Rep. Patridge	It depends on the city and what zoning ordinances they have. The cities cannot prohibit the businesses, only where they can be located.
201	Chair Shetterly	Must a city accommodate the sexually oriented businesses with a location?
202	Rep. Patridge	Yes, under the first amendment.
207	Rep. Walker	Who is opposed to HJR 52 and to previous Ballot Measures dealing with adult businesses?
212	Rep. Patridge	Todayís hearing will show who is opposed.
216	Rep. Walker	How might it effect the location of an adult business when a business area is rezoned for a residential area?
225	Rep. Patridge	It will be up to the individual city zoning ordinances to decide that.

230	Rep. Uherbelau	Are there any other states that have similar laws to HJR 52?
248	Rep. Patridge	In most states, the court has resolved the problem concerning the location of sexually oriented businesses. Oregon is creating new ground for controlling the zoning of these businesses.
276	Rep. Uherbelau	Would HJR 52 affect "La Dolls"?
280	Rep. Patridge	Yes, HJR 52 would affect "La Dolls" which is a nude dancing bar in downtown Medford.
293	Rep. Uherbelau	How would HJR 52 zone areas where the businesses have both a non-sexually oriented business combined with a sexually oriented business?
302	Rep. Patridge	HJR 52 would not effect businesses with multiple kinds of business.
312	Rep. Uherbelau	How about magazine stores that carry all kinds of magazines?
317	Rep. Patridge	It depends on whether the sexually oriented magazines were the principle part of the business.
324	Chair Shetterly	States that there will always be debate on whether a business' principle business is sexually oriented material.
327	Rep. Lowe	Do you have impact statistics concerning locating a sexually oriented business in one area?
350	Rep. Patridge	Discusses the effects to a city regarding the concentration of adult businesses in one central location. States that HJR 52 will allow city and counties to decide on what zoning they prefer for locating sexually oriented businesses.
376	Rep. Lowe	Would locating adult businesses together cause a law enforcement problem?
380	Rep. Patridge	Yes, some cities have found a law enforcement problem. There are no statistics for small towns.
393	Rep. Lowe	States that there are no adult businesses in District 26, which consists of small towns, except for one business that has both adult entertainment and restaurant business.
417	Rep. Patridge	HJR 52 would not "require" zoning to regulate where adult businesses would be located, the statute "allows" the zoning.

423	Chair Shetterly	Would a restaurant operation with topless waitresses be defined as a sexually oriented business?
431	Rep. Patridge	Yes.
443	Rep. Williams	Asks about taverns qualifying as an adult business that adds nude dancing to their business and what language needs to be added to HJR 52 to define this situation.
487	Chair Shetterly	On line 9, page 1 of HJR 52, a " principle business" is defined.
<b>Tape 93, A</b>		
033	Rep. Patridge	Discusses why the language in HJR 52 was chosen regarding the definition of a sexually oriented business.
043	Rep. Edwards	States that HJR 52 gives authority to the local government to decide the definition for a sexually oriented business.
055	<b>Rep. Vic Backlund</b>	<b>State Representative, House District 33</b>  Testifies in support of HJR 52. Discusses the public support for controlling sexually oriented businesses. Discusses the intent of HJR 52 regarding zoning of sexually oriented businesses.
083	Rep. Patridge	Explains why zoning regulation was chosen to handle the problem of locating sexually oriented businesses.
105	<b>Karen Hanken</b>	<b>Business owner, Jackson County</b>  Testifies in support of HJR 52. Discusses and gives examples of the negative situations in a business area when a sexually oriented business locates there. Explains how negative perceptions in business areas lead to economic distress.
213	Rep. Uherbelau	How long have you had your business in that area?
215	Hanken	We opened our store in December of 1997.
225	Rep. Uherbelau	Would you have the ability to compare your economic income before and after the sexually oriented business located next to your business?
228	Hanken	States that it is difficult to give economic statistics for a business during the first year. The Supreme Court states that 5% of the zoning has to be open to adult businesses with 200 ft. from a business, 1000 from a school, and 500 ft. from each other.

257	Chair Shetterly	States that HJR 52 would not establish the standards of adult businesses, it would just incorporate the standards set by the Supreme Court.
260	Rep. Lowe	Where would an appropriate location be an adult business within the city limits?
271	Rep. Patridge	Explains why the Supreme Court decided upon the five- percent minimum zoning for adult businesses.
285	Hanken	States that local government will at least have some control over locating adult businesses with HJR 52.
300	<b>Curt Bennett</b>	<b>City Council, Medford, Oregon</b>  Testifies and submits written testimony on behalf of Lindsay Berryman in support of HJR 52 ( <b>EXHIBIT D</b> ). Gives some examples of situations where sexually oriented businesses located near residential and school areas. Discusses citizen involvement in developing ordinances to protect certain areas in the city from sexually oriented businesses. States that attorneys feel the need for the constitution to be amended to allow these protective ordinances in cities.
<b>Tape 92, B</b>		
030	Bennett	Expresses support for HJR 52 that helps solve the problems of protecting neighborhoods and businesses from adult businesses.
046	<b>Jim Francesconi</b>	<b>Commissioner, City of Portland</b>  Testifies and submits written testimony in support of HJR 52 ( <b>EXHIBITS E &amp; F</b> ). Discusses the responsibility of the legislature to address the issue of protecting communities from the blight of adult businesses. States that the key to keeping a city healthy is working together with the citizens and HJR 52 gives them the tool to accomplish this.
063	<b>Charlie Hales</b>	<b>Commissioner, City of Portland</b>  Testifies in support of HJR 52. Discusses why cities have zoning ordinances. Discusses side effects that result from adult businesses. Expresses support for HJR 52 regarding the interpretation of zoning matters.
121	Rep. Lowe	Will a business that has nude dancing and restaurant food more likely start an area of clustered adult businesses?
124	Hales	Zoning authority does not give a city the power to stop an adult business from locating in their city, only control as to where it can be located.
135	Chair Shetterly	Asks about HJR 52 being a tool for zoning regulation.

147	<b>Madelyn Wessel</b>	<b>Citizen, Multnomah County</b> Testifies in support of HJR 52. Explains the difficulty to create legislation that will balance out current laws and judgments by the Supreme Court.
171	Chair Shetterly	Asks about defining what portion of the business is sexually oriented.
175	Wessel	Discusses the terms used to determine the ability to zone according to the principle business.
183	Rep. Walker	Why don't shopping malls have adult businesses?
188	Hale	Malls are private businesses and have control of what businesses go into the area and know what negative effect would take place.
206	Rep. Walker	How are the cities going to accommodate these businesses?
215	Hale	Explains how cities will solve the zoning problems of allowing adult businesses.
237	Rep. Williams	Asks about the ability to regulate zoning of adult business with the passage of HJR 52.
245	Wessel	Explains what feasible zoning regulations are for control of adult businesses with current city ordinances.
284	Rep. Williams	Asks if the City of Portland will fund a Ballot Measure campaign to promote HJR 52.
301	Francesconi	Explains the role of the Portland City Council in promoting HJR 52.
322	Rep. Edwards	Asks about the approach that the City of Portland would take to keep adult businesses out of certain areas if HJR 52 passes.
336	Hales	Discusses what the City of Portland's approach will be regarding zoning adult businesses if HJR 52 passes.
370	Rep. Edwards	Currently, how does the City of Portland now determine where the adult businesses are located?
375	Hales	Explains the reluctance of property owners to allow these adult businesses to move in and how adult businesses look for high traffic areas.
388	<b>Tom Cropper</b>	<b>Citizen, Portland, Oregon</b>

		Testifies in support of HJR 52. Explains the problem of adult businesses in his area and what the law enforcement does to control obscene activity.
<b>Tape 93, B</b>		
018	<b>Norman Stoll</b>	<b>Hollywood Neighborhood Association</b>  Testifies in support of HJR 52. Explains how adult businesses offer to pay high rent which entices property owners. Discusses a situation where nude dancing started in a restaurant that he leased and the problem of getting rid of the nude dancing. Authorities have no power to control adult businesses because the constitution gives too many rights to these businesses.
064	<b>Helen Stoll</b>	<b>Citizen, City of Portland</b>  Testifies and submits a video in support of HJR 52 ( <b>EXHIBIT G</b> ). Explains how allowing sexually oriented business starts the influx of many such businesses, including prostitution. Discusses the citizen vigilance it takes to fight this problem. Discusses the crimes that affected her family because of the sexually oriented businesses. States that everyone is a victim that lives by these businesses.
133	<b>Paul Dionne</b>	<b>Store Manager, Mr. Peeps Adult Video</b>  Testifies and submits written testimony in opposition of HJR 52 ( <b>EXHIBIT H</b> ). Discusses the lack of evidence that adult businesses will lower property values and promote crime. Explains why there is public support and patronage for adult businesses. Explains how HJR 52 language could include Planned Parenthood as a sexually oriented business. Discusses the effect of HJR 52 on civil liberties. Explains why HJR 52 should be opposed.
245	Rep. Edwards	Could you elaborate about your comment that HJR 52 would prohibit citizens from reading, seeing, and hearing whatever they want in the privacy of their own homes.
250	Dionne	Explains why zoning would locate the adult business too far from the home.
262	Rep. Edwards	States that HJR 52 does not prohibit adult businesses.
258	Dionne	The side effect of HJR 52 would prohibit these businesses.
269	Rep. Edwards	Explains that Planned Parenthood is not a "commercial establishment for profit" as defined by HJR 52.
276	Dionne	Planned Parenthood could be interpreted a business because they take donations.
285	Rep. Edwards	States that Planned Parenthood could not fall under the language of HJR 52 regarding the definition of a commercial business.

290	Rep. Lowe	Are you suggesting we add the words "sexual activity for entertainment" to line 10, page 1 of HJR 52?
297	Dionne	States that HJR 52 is not properly written. Gives an example of Rooster Rock State Park's nude swimming as a business.
313	Rep. Witt	Does Planned Parenthood fall within the description of a sexually oriented business according to HJR 52?
321	Dionne	Yes, because it provides sexual information.
324	Rep. Witt	So, Planned Parenthood is defined as nude dancing, nude entertainment, or the production, distribution, or display of representations of sexual activity?
325	Dionne	Yes.
328	Rep. Witt	Asks about the statement, "government should not be in the business of regulating morality" in Mr. Dionne's testimony.
331	Dionne	No, they shouldn't be.
339	Rep. Witt	Isn't HJR 52 about zoning, not censorship as stated in your testimony.
345	Dionne	Explains that city zoning ordinances control the location of businesses so they are not next to a residential zone.
352	Rep. Witt	Why are you opposing HJR 52?
357	Dionne	Because HJR 52 is flawed concerning the location of adult businesses and any regulation can lead to censorship.
411	<b>Janna Brown</b>	<b>SIEGE Steering Committee</b>  Testifies and submits written testimony in support of HJR 52 ( <b>EXHIBIT I</b> ). Discusses the mission of SIEGE regarding control of sexually oriented businesses.
<b>Tape 94, A</b>		
043	<b>Greg Olsen</b>	<b>SIEGE Steering Committee</b>  Testifies in support of HJR 52. Discusses SIEGE Steering Committee's interpreting the sexual oriented business issue as a zoning issue. Gives statistics of other states regarding the increase in crime when a sexually oriented business



		opens. Pornography businesses do not need to be located by schools and homes because people who want it will go anywhere to get it. Discusses where adult businesses should be located.
101	<b>Dave Kanner</b>	<b>SIEGE Steering Committee</b>  Testifies and submits written testimony in support of HJR 52 ( <b>EXHIBITS J &amp; K</b> ). States that HJR 52 will not require any city to change their zoning ordinances regarding adult businesses or ban any sexually oriented business. Explains the relationship between a rendering plant and a sexually oriented business regarding zoning laws. Discusses "freedom of expression" and the right of a society to restrict the location of adult businesses. Expresses the support of SIEGE for the passage of HJR 52.
177	Rep. Walker	What location is appropriate for an adult business?
188	Olsen	Explains where these businesses should be located. Expresses his support of HJR 52 being the tool that will allow local government to control the location of adult businesses.
218	<b>Jim Crooker</b>	<b>Citizen, Coos County</b>  Testifies in support of HJR 52. Discusses the objections to sexually oriented businesses and HJR 52 being the tool to control these businesses.
270	<b>Tom Chase</b>	<b>Citizen, Coos County</b>  Testifies in support of HJR 52. Explains the disastrous effect of an adult business that opened near a school in his town. Explains the role of society in establishing rules for a safe environment. Expresses his support of HJR 52 and the responsibility of the legislature to pass this bill.
357	Rep. Uherbelau	Does television promote obscenity in the home?
370	Chase	Explains the responsibility of the family to regulate what goes on in the home.
396	<b>Dave Fidanque</b>	<b>Executive Director, American Civil Liberties Union (ACLU)</b>  Testifies in opposition of HJR 52. Discusses the reasons why ACLU is opposed to HJR 52. States that cities have to allow adult businesses according to the constitution. States that the language of HJR 52 is too vague and will create loopholes regarding regulating location of adult businesses.
<b>Tape 95, A</b>		
040	Fidanque	Discusses the crime effects of adult businesses in cities in relationship to alcohol related businesses. Discusses SB 1142 that was introduced this session, that includes bars and taverns to be regulated by zoning.

106	Rep. Williams	Has the Oregon Coalition for Free Expression (OCFE) taken a position to HJR 52 in relationship to SB 1142?
114	Fidanque	Does not know the exact position of Oregon Coalition for Free Expression. Explains why ACLU opposes HJR 52. States that ACLU strongly supports free expression.
152	Rep. Uherbelau	How about all those that testify that HJR 52 does not ban free speech?
162	Fidanque	Explains why individuals testify for zoning laws to regulate sexual oriented businesses, but are really intending to regulate free speech. The passage of HJR 52 will not solve the adult business issue.
238	Rep. Walker	Asks about the hiring of girls under the age of 21 to do nude dancing. Would you support SB 1142 because it does not regulate the kind of business?
259	Fidanque	ACLU does not take a position on SB 1142. Is the priority protecting our civil rights or protecting a few entertainers under the age of 21? Discusses whether zoning ordinances should control all businesses that affect society or just the adult businesses.
291	Rep. Walker	Discusses that only two states do not having zoning regulations to prohibit adult businesses from locating in certain areas.
301	Fidanque	Explains that those other 48 states have constitutions that have been interpreted differently so adult businesses can be regulated. States that it is not wrong to protect free expression.
346	Rep. Wells	What is the solution for Oregonis problem of regulating adult businesses?
363	Fidanque	Discusses which problems cannot be solved in Oregon regarding eliminating sexually oriented businesses. States that sexually oriented businesses do not want to be seen by the public.
405	Rep. Wells	What is the answer to the problem of locating adult businesses?
412	Fidanque	Passing of time and the free market will help solve this issue. Discusses the problem of trying to implement laws and ordinances for controlling adult businesses.
475	Chair Shetterly	Closes public hearing.  Adjourns meeting at 4:00 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,  
Administrative Support Counsel

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**EXHIBIT SUMMARY**

- A - HJR 52 , Proposed -2 amendment, Counsel, p. 1**
- B - HJR 52, Adult Zoning Studies & Court Cases, Rep. Patridge, p. 1**
- C - HJR 52, Newspaper article "Zone Sex Shops", Rep. Patridge, p. 1**
- D - HJR 52, Written testimony, Lindsay Berryman, p. 1**
- E - HJR 52, Written testimony, Jim Francesconi, p. 1**
- F - HJR 52, Written testimony, Jim Francesconi, p. 2**
- G - HJR 52, Video "How could any girl do that?", Helen Stoll, video**
- H - HJR 52, Written testimony, Paul Dionne, p. 3**
- I - HJR 52, Written testimony, Janna Brown, p. 4**
- J - HJR 52, Written testimony, Dave Kanner, p. 7**
- K - HJR 52, Newspaper article "Let us entertain you takes on whole new meaning", p. 1**
- L - HJR 52, Written testimony, Margaret Tweet, p. 6**

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