

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

March 24, 1999 Hearing Room 357

8:30 a.m. Tapes 103 - 104

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

Rep. Sunseri

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

HB 2483 Public Hearing

HB 2593 Public Hearing

HB 2772 Public Hearing

HB 2395 Public Hearing

HB 2931 Public Hearing

HB 2914 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.

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TAPE/#	Speaker	Comments
TAPE 103, A		
005	Chair Mannix	Calls meeting to order at 8:34 a.m.
<u>HB 2483, 2593, 2772, 2395, 2931, 2914 COMBINED PUBLIC HEARING</u>		
016	Counsel Horton	HB 2483 allows a person to carry a concealed weapon if the person may legally own a weapon. HB 2593 grants reciprocity to persons holding concealed handgun licenses or permits issued by other states. HB 2772 authorizes forfeiture of a motor vehicle used in a drive-by shooting. HB 2395 expands the crime of unlawful possession of a firearm to include a person who knowingly carried within any vehicle a handgun concealed and readily accessible to a person. HB 2931 designates the Department of State Police as the point of contact for conducting criminal background checks for purchase of a long gun or shotgun. HB 2914 authorizes the school board to prohibit persons who have concealed handgun licenses from possessing firearms on school property.
069	Rep. Steve Harper	State Representative, House District 53 Testifies in support of HB 2593. We are trying to establish reciprocity with neighboring states because they won't recognize our gun licenses if we don't recognize their licenses.
094	Kevin Starrett	Gun Owners of America Testifies and submits written testimony in support of HB 2483 (EXHIBIT A). The Vermont-style bill eliminates the requirement that a permit be held to carry a concealed weapon. Gives examples of when licenses have been denied without cause. Discusses support of HB 2593, but we would like to see a Vermont resident or a resident of any state that doesn't issue permits to be able to carry a concealed handgun in Oregon. I support HB 2772, the forfeiture of a motor vehicle in a drive by shooting. If a person carries a handgun in a vehicle in violation of the law, they should be prosecuted as stated in HB 2395. I do not support the idea that people should have background checks when purchasing a gun at all.
196	Chair Mannix	If you don't know the purchaser, wouldn't you want to know something about them before you provide them with a firearm?
202	Starrett	It should be the responsibility of the person transferring a gun to know whom they are transferring that gun to.
209	Chair Mannix	Discusses the fact that it would take about 3 weeks for a private citizen selling a handgun to request and receive a background check on the buyer of the handgun.
220	Starrett	Are you suggesting a mechanism whereby that check can be done instantaneously?

222	Chair Mannix	Yes.
223	Starrett	I am not comfortable with the idea that a background check can be done on anyone simply by stating that I am selling them a gun.
229	Chair Mannix	On an instant check, I can only find out if you have a criminal record or are considered mentally dangerous.
233	Starrett	If there was a non-intrusive way to find out who you are selling a gun to, I would be in favor of that. I am not in favor of selling guns to felons. I feel the instant background check isn't working because a police officer in Canby was denied a rifle purchase. Discusses the record keeping aspect of purchasing a gun.
292	Rep. Prozanski	How will we know if someone is qualified to purchase a gun without a background check?
295	Starrett	There is no way to tell.
296	Rep. Prozanski	So a seller would just have to take a purchaser's word that they are a law-abiding citizen?
298	Starrett	That would be up to the seller. The intention of background checks is to weed out prohibited people, but background checks have become an intrusion on people's rights. Discusses unintended consequences that have evolved from instant background checks on the purchase of a gun.
335	Rep. Prozanski	Would you do away with all laws registering and regulating firearms?
342	Starrett	Discusses dealing with the criminal behavior in the commission of a crime rather than if the gun used was registered or not. Laws give us an option to respond to criminal behavior, they do not prevent that behavior. HB 2914 punishes a person who has followed all the rules in obtaining a concealed weapons license.
386	Rep. Bowman	Why would anyone bring a gun into a school to pick up their child?
389	Starrett	Discusses a policy in Israel where violence was occurring in schools and people were encouraged to carry weapons for self defense.
416	Rep. Prozanski	Does seeing someone else in the school with a gun give you the right to carry and use a gun in the school?
422	Starrett	There are legitimate reasons to carry a defensive firearm and those legitimate reasons don't disappear when you step on school grounds.

TAPE 104, A

003	Rep. Prozanski	Are you telling us that there has never been "a law-abiding citizen" that has gone berserk in a setting where there is a crowd, such as a school?
006	Starrett	I do not know of an example when a normal person has gone berserk, but writing a law preventing a person who is licensed to carry a concealed weapon from going on school property is not going to prevent a crazy or berserk person from carrying out a crime.
010	Rep. Gianella	The law-abiding persons who have applied for a permit, have had a firearm safety class and fingerprints taken and have the gun on their person only long enough to pick up their child at school and go home.
020	Rep. Prozanski	Guns could then be carried into an airport where they are prohibited.
024	Starrett	If I have to leave my firearm in my vehicle when I pick up a child at school, it is not only an inconvenience but that firearm could be stolen from my vehicle.
033	Dr. Larry Priano	Physician Testifies and submits a poem in support of HB 2483 (EXHIBIT B). The current Oregon concealed weapons permit law is a travesty. Cites a U. S. Supreme Court decision <i>Murdock v. Pennsylvania</i> 319 U.S. 105 which says no state shall convert a liberty to a privilege, license it, and attach a fee to it which is exactly what our current concealed weapons permit law does. HB 2483 would allow law-abiding citizens the freedom and right to protect themselves.
105	Chair Mannix	It is a Class A misdemeanor to carry a concealed weapon without a permit. Has a person ever been charged and convicted just for carrying a concealed weapon without a permit? I would suspect that the only time someone is charged with this is when another crime was committed and a concealed weapon was found. What if we changed that misdemeanor charge to a violation, punishable with only a fine, if the person has committed no other offense and has no criminal record?
129	Dr. Priano	Are you suggesting making carrying a concealed weapon without a permit a lesser offense?
130	Chair Mannix	Yes.
131	Dr. Priano	Why charge a decent, law-abiding citizen at all if he is carrying a handgun, but has done absolutely nothing wrong?
137	Rep. Prozanski	There have been a number of cases that have come through the courts where a person is charged with carrying a concealed weapon without a permit.

144	Rep. Sunseri	Would you leave the Supreme Court ruling on changing an inalienable right to a privilege?
146	Dr. Priano	Yes.
157	Captain Tom Dixon	Oregon State Police Testifies and submits written testimony in opposition to HB 2931 (EXHIBIT C) and submits a handout on the Handgun Instant Check System (HICS) (EXHIBIT D). Mentions some of the people and organizations, including the Governor, that strongly support record retention. Discusses the additional systems the Oregon State Police use to do a more thorough background check than what the federal government uses. HB 2931 does not allow the State Police to retain records, do a check on the firearm itself, restricts money to run the program, and does not address information regarding a stolen weapon.
303	Chair Mannix	Is there a policy objection to allowing a citizen to find out over the phone if someone that they are about to transfer a firearm to has a criminal history or is mentally ill and dangerous?
314	Dixon	We have no policy objection. A potential buyer or seller of a weapon can call us and we can run a check on a weapon and tell you whether that sale or transfer is denied or approved.
328	Rep. Bowman	Your handout (EXHIBIT D) cites that 251 people were arrested while attempting to purchase a handgun. Is there a law in the statutes that states that someone is arrested and prosecuted if they attempt to buy a gun?
338	Dixon	There are some federal statutes that could apply. For example, if a felon is applying for the purchase of a gun, they are committing a crime. The handout has a breakdown of why a person was arrested.
350	Rep. Bowman	How does a dealer possess a stolen gun to resell it?
355	Dixon	Discusses that there are a variety of ways a dealer comes into possession of a gun.
362	Rep. Bowman	Discusses a massive move in Portland to track down the background on a gun used in a crime. Are the Oregon State Police called to find out who originally owned the gun?
373	Dixon	Discusses the two ways that the State Police are involved in the identification of a gun.
398	Chair Mannix	Could you find out the number of times a person with a permit has had a concealed handgun on a school campus and has committed a crime and statistics on a person with no previous criminal history being charged with carrying a concealed weapon?

412	Rep. Sunseri	Could we also find out how many people who have a carry permit have been involved in a crime?
418	Dixson	Are you asking for statistics on people who have a concealed weapon permit and commit a crime?
421	Chair Mannix	Yes.
424	Rep. Bowman	I would like to know how many family members of someone permitted to carry a handgun have committed a crime?
TAPE 103, B		
005	Rep. Prozanski	You could probably look at county records that would show how many people have had their concealed weapons permit revoked because of crimes.
010	Rep. Sunseri	Would those records delineate between crimes used with a gun and other crimes?
012	Rep. Prozanski	Yes.
021	Wilma Wells	Confederation of Oregon School Administrators (COSA) Testifies in support of HB 2914. Discusses how she lost her rights to privacy when she applied to buy a cell phone and was denied a phone because she would not release her social security number.
032	Chair Mannix	You might want to complain to the Public Utility Commission because requiring to give out your social security number may be a violation.
037	Wells	HB 2914 will help parents feel that their children are safer in school because people will be prohibited from possessing a weapon on school property.
050	Chair Mannix	Are there any statistics available from COSA regarding persons with or without concealed weapon permits causing incidences on school campuses?
053	Wells	I donit know.
054	Chair Mannix	Could you get that information?
055	Wells	Yes.
060	Rep. Sunseri	Did you state that it would make someone feel better by infringing upon another personis inalienable right to carry a firearm?

065	Wells	It could be interpreted that way.
074	Anne Kelly Feeney	Oregon Coalition for Safe Streets, Schools & Homes Testifies and submits written testimony in opposition to HB 2593 (EXHIBIT E). Discusses how some states have laws regarding handguns that are not as strict as Oregon's laws. Testifies and submits written testimony in opposition to HB 2483 (EXHIBIT F). Submits Oregonian article regarding "gun week" in the Oregon House (EXHIBIT G). HB 2483 allows the liberalization of carrying concealed weapons to anyone who can buy a weapon.
096	Rep. Sunseri	I do not believe HB 2483 states that.
099	Feeney	HB 2483 authorizes that a person who can buy a gun can carry a concealed weapon without getting a concealed weapons permit. Discusses that proponents of HB 2483 are trying to promote the sale of more guns, and mentions information provided by the National Rifle Association (NRA).
112	Rep. Sunseri	Has the NRA testified and given us any information today?
113	Chair Mannix	I believe someone from the NRA is here today and will be testifying later.
114	Rep. Sunseri	Since the NRA hasn't testified today, what are you refuting?
115	Feeney	I object to the NRA's agenda of having more guns and believing that it would create less crime in Oregon.
120	Rep. Sunseri	Since I am the sponsor of HB 2483, I can assure you that the NRA had nothing to do with the introduction of this bill.
122	Rep. Simmons	As a co-sponsor of HB 2483, this legislation has been very popular in my district.
126	Feeney	Discusses statistics that show Oregonians feel strongly about more restrictions and safer gun laws.
131	Rep. Simmons	I would question the validity of the statistics.
13r	Feeney	The poll mentioned was specifically talking about background checks at gun shows, but I can get national statistics that ask gun owners for their perspective on these general laws.
138	Chair Mannix	We would appreciate you providing us with that information.

150	Rep. Ryan Deckert	State Representative, House District 8 Testifies and submits written testimony in support of HB 2914 (EXHIBIT H). This legislation gives the school board authority to prohibit concealed handguns on school property.
174	Rep. Prozanski	Do you want to have local control by allowing an elected body to decide regulations within a school district?
186	Rep. Deckert	We would like the opportunity to say that in our schools you would not encounter a gun.
196	Rep. Sunseri	Would you be willing to disregard the 4 th Amendment to the Constitution and allow illegal searches in people's homes for drugs if people wanted to feel better about the communities they lived in?
204	Rep. Deckert	No, in terms of the 4 th Amendment. The right to a gun-free environment, like in a courtroom, should be the same for an elementary or junior high school.
218	Rep. Sunseri	That philosophy concerns me because the 2 nd Amendment says the people have a right to bear arms and if we are willing to infringe on that right, without changing the Constitution, then we are just as likely to trample on the other Amendments to the Constitution.
240	Rep. Bowman	How do you see the Beaverton School Board moving forward on this law? Would there be school board hearings and voting on this before it became the law in Beaverton?
248	Rep. Deckert	Yes.
259	Rep. Bowman	A person can have their gun and do whatever they want with it, but that gun doesn't have to enter the school environment.
270	Rep. Gianella	Would you be comfortable with a no-guns policy except for handguns owned by people who have permits and have attended gun safety classes?
278	Rep. Deckert	I am interested in allowing my local school board to make schools in my district be gun-free environments.
308	Rep. Gianella	If a parent carried a concealed weapon for protection and went to a school to pick up their child, it would be inconvenient to remember every time to put that gun away before entering the school.
327	Rep. Deckert	If I was a local school board member, I would want to hear that argument, and that school district might choose not to adopt a gun-free environment.

353	Rep. Simmons	Your written testimony refers to handguns, but your oral testimony refers to firearms, which is a much broader range of weapons. Discusses the firearms that might be found in different classes at schools in his district and the right to be able to bear those arms.
381	Rep. Deckert	I would not propose HB 2914 if I were living in Eastern Oregon where the lifestyle is completely different and this legislation would fail. But my district of Beaverton is very interested in this legislation.
399	Rep. Simmons	Are we one nation under God or not with the same rules for all?
410	Rep. Hansen	I agree with the local control issue because I wouldn't want a person bringing a handgun into the school that my grandchildren attend. I realize there are different views in different parts of the state, but HB 2913 is just giving a school board the chance to decide for themselves on the prohibition of guns on school property.
TAPE 104, B		
025	John Nichols	Executive Director, Oregon Gun Owners Testifies and submits written testimony in support of HB 2483 (EXHIBIT I). Testifies and submits written testimony in opposition to HB 2914 (EXHIBIT J). Describes being on the rifle team in high school in north Portland where there was no problem having a gun on school property.
074	John Hellen	Oregon Gun Owners Testifies and submits written testimony in opposition to HB 2914 (EXHIBIT J). Expresses his concern that exemptions now in statute continue for having guns in school programs like ROTC and hunter safety courses. Discusses preemption being the belief that no matter where a gun owner traveled in Oregon he knew what his rights were. Testifies and submits written testimony in support of HB 2772 and HB 2593 (EXHIBITS K & L). Discusses Professor John Lottis book, <i>More Guns, Less Crime: Understanding Crime and Gun Control Laws</i> , which was passed out to each legislator at the beginning of this session.
166	Rep. Prozanski	Did you say that book has been made available to us?
167	Hellen	Yes, we handed it out to every legislator at the beginning of Session. Testifies and submits written testimony in support of HB 2931 (EXHIBIT M). Discusses the process used by the federal government to keep track of firearms sold or transferred.
237	Tara Reilly	National Rifle Association (NRA) Testifies and submits written testimony in support of HB 2593 (EXHIBITS N & O). Discusses reciprocity among Oregon's contiguous states for carrying a firearm. We would like to see Oregon adopt a law honoring any out-of-state permits that would open those states for Oregonians to be able to carry a concealed weapon. Discusses the discretion that some states use in granting

		concealed handgun licenses. Laws in other states may be complicated, but the information is available and could be provided to the committee upon request.
308	Chair Mannix	What happened to looking at reciprocity back in 1989?
313	Reilly	It is my understanding that the list of recognizable states for reciprocity was never compiled.
324	Rod Harder	National Rifle Association (NRA) Testifies in support of HB 2483, HB 2593 and HB 2772. We have some concerns about HB 2395 because the language could put some unsuspecting people in jeopardy if they did not know a weapon was in the motor vehicle. Regarding HB 2931, we would like to see a criminal penalty attached for failure to comply. We are opposed to HB 2914 because it flies in the face of preemption. There are very good reasons to have firearms in schools for the purpose of education.
383	Rep. Hansen	The preemption that came from 1989 has been mentioned several times. I thought that part of that discussion was the trade off of preemption of local ordinances for a uniform concealed weapon permit law that passed. Are we talking about the violation of a preemption in one bill where the Vermont carry bill may be another deviation from the compromise that was reached in 1989?
403	Harder	The bill that passed in 1989 was considerably more complex than those two issues and every year since 1989, everything that gun owners have gained has come under attack.
441	Bob Tiernan	Libertarian Party of Oregon Testifies and submits written testimony in support of HB 2483 (EXHIBIT P). Discusses how insulted he felt when he went through the requirements for getting a concealed weapons permit. Concealed weapons permits won't stop someone from using a gun to commit a crime and criminals are not the people applying for them. Getting rid of the licensing requirement will not increase the number of people who commit crimes.
494	Chair Mannix	Adjourns meeting at 10:25 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2483, written testimony submitted by Kevin Starrett, dated 3/23/99, 5 pgs.

B - HB 2483, written testimony submitted by Dr. Larry Priano, 1 pg.

C - HB 2931, written testimony submitted by Capt. Tom Dixson, Oregon State Police, dated 3/24/99, 2 pgs.

D - HB 2931, written testimony submitted by Capt. Tom Dixson, Oregon State Police, dated 3/24/99, 11 pgs.

E - HB 2593, written testimony submitted by Anne Kelly Feeney, dated 3/23/99, 3 pgs.

F - HB 2483, written testimony submitted by Anne Kelly Feeney, dated 3/23-24/99, 5 pgs.

G - HB 2483, Oregonian article submitted by Anne Kelly Feeney, 3/23/99, 1 pg.

H - HB 2914, written testimony submitted by Rep. Ryan Deckert, District 8, dated 3/24/99, 1 pg.

I - HB 2483, written testimony submitted by John Nichols, Oregon Gun Owners, dated 3/24/99, 1 pg.

J - HB 2914, written testimony submitted by Oregon Gun Owners, dated 3/24/99, 1 pg.

K - HB 2772, written testimony submitted by Oregon Gun Owners, dated 3/24/99, 2 pgs.

L - HB 2593, written testimony submitted by Oregon Gun Owners, dated 3/24/99, 4 pgs.

M - HB 2931, written testimony submitted by Oregon Gun Owners, dated 3/24/99, 2 pgs.

N - HB 2593, written testimony submitted by the National Rifle Association (NRA), 12 pgs.

O - HB 2593, written testimony submitted by the National Rifle Association (NRA), dated 9/14/98, 4 pgs.

P - HB 2483, written testimony submitted by Bob Tiernan, Libertarian Party of Oregon, 5 pgs.