

**HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW**

**April 27, 1999 Hearing Room 357**

**8:00 a.m. Tapes 161 - 163**

**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 2705 Work Session**

**HB 3051 Work Session**

**HB 3105 Work Session**

**HB 3129 Work Session**

**HB 2462 Work Session**

**HB 3052 Work Session**

**HB 3057 Work Session**

**HB 3088 Work Session**

**HB 3158 Work Session**

**HB 3276 Work Session**

**HB 3376 Work Session**

**HB 3378 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
<b>TAPE 161, A</b>		
008	Chair Mannix	Calls the meeting to order at 8:15 a.m.
<b><u>HB 2705 WORK SESSION</u></b>		
021	Counsel Horton	Discusses the ñ1 and ñ2 amendments to HB 2705 that requires persons between 18 and 21 years of age who are convicted of alcohol violations to undergo diagnostic assessment and treatment for alcoholism or problem condition involving alcohol ( <b>EXHIBITS A &amp; B</b> ).
035	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT HB 2705-1 amendments dated 04/26/99.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Rep. Hansen, Rep. Simmons</b>
<b>Chair Mannix</b>		<b>Hearing no objection, declares the motion CARRIED.</b>
047	<b>Sen. Peter Courtney</b>	<b>State Senator, Senate District 17</b>  Testifies in support of HB 2705 and discusses the ñ2 amendments (EXHIBIT B) that were drafted in cooperation with the Oregon Liquor Control Commission (OLCC) to prohibit Scores Bar in Salem from giving away free beer to promote their establishment. This legislation would not interfere with wine tasting occasions.
081	<b>Rep. Vic Backlund</b>	<b>State Representative, House District 33</b>  Testifies in support of HB 2705 and the ñ2 amendments. I feel establishments

		that dispense liquor should be controlled by the OLCC, but because Scores Bar could not get a liquor license, they decided to give the beer away to promote business. State law is vague as to the "giving away" of beer so we are proposing HB 2705 with the ñ2 amendments.
104	<b>Barb Hutchison</b>	<b>Oregon Liquor Control Commission (OLCC)</b>  Testifies in support of HB 2705 and the ñ2 amendments. Discusses what happens when an establishment is not licensed by the OLCC and proceeds to serve alcohol.
130	Chair Mannix	Would the ñ2 amendments still allow an entity with another type of license to dispense wine samples or provide wine tasting?
140	<b>Teya Penniman</b>	<b>Assistant Attorney General</b>  Yes. ORS 471.402 specifically authorizes sample tastings.
150	Chair Mannix	Does a business that wants to hold a grand opening and serve alcohol have to request special permission from the OLCC?
154	Penniman	If a caterer is used for the occasion, that catering service will have server permits. A "special events license" to serve alcohol could be acquired for a minimal fee.
160	Chair Mannix	Was the bar, Scores, refused a liquor license by the OLCC?
163	Penniman	Scores applied for a liquor license, but after a negative recommendation by the City and OLCC regulatory staff, Scores withdrew their application.
171.	Rep. Sunseri	HB 2705 is attempting to stop establishments without a license from giving away free beer, but if an establishment has a liquor license and decides to give free beer away, this legislation would not affect them?
182	Penniman	That is correct. The OLCC doesn't want to micromanage the establishments that already have licenses.
190	Rep. Bowman	Since Scores started giving away free beer, have there been any incidents of over intoxication or unwanted behavior by patrons of this facility?
197	Rep. Backlund	We do not have documentation of any such incidents, but people in the neighborhood are very upset that government cannot deal with an establishment giving away alcohol.
207	Sen. Courtney	Discusses the problem of minors in the same establishment with drinking adults.

217	Rep. Bowman	Is the issue that the minors are in the establishment where beer is being consumed?
219	Sen. Courtney	Yes, that and the fact that other retail establishments have to follow the rules and when Scores didn't get a license, they went ahead and gave the beer away.
231	Rep. Bowman	Is the issue that an establishment has found their way around laws and regulations, or are constituents in this neighborhood trying to get rid of this club by going to their legislators?
248	Chair Mannix	This is the first club that has figured out how to circumvent licensing laws, but we want to stop this from escalating into other establishments finding their way around the liquor laws.
<b>292</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT HB 2705-2 amendments dated 04/26/99.</b>
294	Courtney	Thanks Rep. Simmons for allowing HB 2705 to be the vehicle to get this amendment into law.
306	Backlund	Also thanks Rep. Simmons.
327	Rep. Bowman	If the ñ2 amendments are adopted, when would this legislation take effect? Is it retroactive?
334	Chair Mannix	It will take effect upon passage if there is an emergency clause.
<b>338</b>		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>340</b>	<b>Rep. Sunseri</b>	<b>MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment.</b>
346	Rep. Prozanski	Will we impact the ñ1 amendments with an emergency clause?
351	Chair Mannix	To alleviate any impact on the ñ1 amendments, we will make only Section 7 operative immediately. The rest of HB 2705 will be operative January 1, 2001.
<b>355</b>		<b>VOTE: 7-0</b>

	Chair Mannix	Hearing no objection to suspending the rules, declares the motion CARRIED.
358	Rep. Sunseri	<b>MOTION: Moves to ADOPT the conceptual amendment to insert an emergency clause that HB 2705 takes effect upon passage and is operative January 1, 2001. However, Section 7 becomes operative upon passage of HB 2705.</b>
		<b>VOTE: 7-0</b>
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
371	Rep. Prozanski	<b>MOTION: Moves HB 2705 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	Chair Mannix	Hearing no objection, declares the motion CARRIED.  <b>REP. SIMMONS will lead discussion on the floor.</b>
378	Chair Mannix	Closes the work session on HB 2705.
<b><u>HB 3378 WORK SESSION</u></b>		
398	Chair Mannix	Discusses a revision proposed to HB 3378 so the name will remain Pioneer Cemetery Commission rather than change to Pioneer Cemetery Advisory Committee. Discusses the rationale for the Pioneer Cemetery Commission being transferred to the jurisdiction of the Parks Department.
<b>TAPE 162, A</b>		
009	Chair Mannix	Closes the work session on HB 3378.

**HB 2705 WORK SESSION**

013	Rep. Mannix	<b>MOTION: Moves to RECONSIDER the vote on the conceptual amendment to "make the emergency clause effective January 1, 2000, not January 1, 2001".</b>
		<b>VOTE: 7-0</b>
	Chair Mannix	<b>Hearing no objection, declares the motion CARRIED.</b>
023	Rep. Simmons	Would there be a problem if we made the emergency clause effective with the entire bill?
027	Chair Mannix	Explains problems that can occur when the emergency clause takes effect before notice of a bill's new sanctions has gotten out.
033	Rep. Prozanski	Discusses the disparity that could occur throughout the state because of the lack of notice about new legislation.
043	Rep. Simmons	<b>MOTION: Moves to ADOPT the conceptual amendment for an emergency clause that HB 2705 takes effect upon passage and is operative January 1, 2000. However, Section 7 becomes operative upon passage of HB 2705.</b>
		<b>VOTE: 7-0</b>
	Chair Mannix	<b>Hearing no objection, declares the motion CARRIED.</b>
046	Rep. Simmons	<b>MOTION: Moves HB 2705 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	Chair Mannix	<b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. SIMMONS will lead discussion on the floor.</b>

050	Chair Mannix	Closes the work session on HB 2705.
<b><u>HB 3051 WORK SESSION</u></b>		
058	Counsel Horton	A work group met on HB 3051 that authorizes the postponement of an implied consent hearing if a police officer is ill or on vacation at the time the hearing must otherwise be held. Discusses the ñ1 amendments ( <b>EXHIBIT C</b> ).
092	Rep. Prozanski	Section 4 on page 5 of the ñ1 amendments are the same regulations that are set in the Model Rules by the Department of Justice for agency representation at hearings.
101	Rep. Bowman	Is law enforcement now put in the place of a lawyer at these hearings?
107	Rep. Prozanski	In administrative hearings, an individual from an agency can act as their agent to present the facts. The same procedure is used at an implied consent hearing for the Department of Motor Vehicles to establish the facts for suspending a person's license. Probable cause needs to be established for the initial stop and for administering a test for drunk driving. The police officer would represent the agency and be able to present evidence and cross examine witnesses.
139	Counsel Horton	This is not a criminal trial, it is an administrative hearing, so no prosecutor is present.
142	Rep. Sunseri	<b>MOTION: Moves to ADOPT HB 3051-1 amendments dated 04/20/99.</b>
146	Kevin Campbell	<b>Oregon Association Chiefs of Police</b> Section 3 of the original bill was replaced by a new Section 3 in the ñ1 amendments, and both the old and new language should appear in Section 3, not either or.
156	Rep. Prozanski	The work group felt the original Section 3 would not pass on the basis of being unconstitutional.
163	Dale Penn	<b>Oregon District Attorney's Association</b> I thought that the original Section 3 was going to remain in HB 3051 with the phrase "unless constitutionally mandated".
180	Rep. Prozanski	Discusses page 3, lines 11 and 12 of the ñ1 amendments (EXHIBIT C) that narrowly construe the legislation to limit the scope of the hearings.

207	Chair Mannix	Do you want HB 3051 set over for alternative amendments?
211	Campbell	No.
212	Rep. Prozanski	If there are problems, those could be dealt with when the bill reaches the Senate side.
222		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
224	<b>Rep. Sunseri</b>	<b>MOTION: Moves HB 3051 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>REP. PROZANSKI will lead discussion on the floor.</b>
230	Chair Mannix	Closes the work session on HB 3051.
<b><u>HB 3105 WORK SESSION</u></b>		
234	Counsel Horton	Discusses the ñ1 and ñ2 amendments to HB 3105 that requires a court when paroling a defendant outside a county jail to order local supervisory authority to supervise the defendant ( <b>EXHIBITS D &amp; E</b> ).
247	Rep. Prozanski	Explains the need for this legislation when an individual is paroled from a county jail before their full sentence is served.
267	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT HB 3105-1 amendments dated 04/22/99.</b>
		<b>VOTE: 7-0</b>



	Chair Mannix	Hearing no objection, declares the motion CARRIED.
272	Rep. Prozanski	MOTION: Moves to ADOPT HB 3105-2 amendments dated 04/26/99.
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
275	Rep. Prozanski	MOTION: Moves HB 3105 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED.  REP. PROZANSKI will lead discussion on the floor.
281	Chair Mannix	Closes the work session on HB 3105.
<b><u>HB 3129 WORK SESSION</u></b>		
287	Counsel Horton	Discusses the ñ1 and ñ2 amendments to HB 3129 that increases the criminal classification of assault in the fourth degree upon a personís third or subsequent conviction involving domestic violence ( <b>EXHIBITS F &amp; G</b> ).
310	Rep. Prozanski	Discusses the difficulty of defining "felt by the child".
322	Counsel Horton	Using "perceived" by the child would leave too broad an interpretation, but "directly perceived" would be limited to <i>seeing</i> or <i>hearing</i> .
328	Chair Mannix	How about <i>feeling</i> ? What if a deaf and blind child was in a motherís arms and

		could feel the vibrations if the mother was struck?
331	Counsel Horton	That would be included in the interpretation of "directly perceived".
338	Rep. Prozanski	<b>MOTION: Moves to ADOPT HB 3129-2 amendments dated 04/23/99.</b>
		<b>VOTE: 7-0</b>
	Chair Mannix	<b>Hearing no objection, declares the motion CARRIED.</b>
350	Rep. Prozanski	<b>MOTION: Moves HB 3129 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
351	Counsel Horton	There is no subsequent referral to Ways and Means and I do not see a fiscal impact statement.
369	Rep. Prozanski	<b>MOTION: Withdraws previous motion to send HB 3129 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
391	Chair Mannix	Recesses the work session on HB 3129 until the committee hears from Fiscal.
<b><u>HB 2462 WORK SESSION</u></b>		
396	Counsel Horton	HB 2462 relates to civil compromise. Discusses the ñ1 and ñ2 amendments <b>(EXHIBITS H &amp; I).</b>
410	Rep. Prozanski	On the ñ2 amendments, when we're talking about civil compromise, are we talking about civilly compromising the criminal action?
412	Chair Mannix	Yes.
413	Rep. Prozanski	<b>MOTION: Moves to ADOPT HB 2462-1 amendments dated 04/26/99.</b>
		<b>VOTE: 7-0</b>

	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>417</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT HB 2462-2 amendments dated 04/26/99.</b>
422	Rep. Bowman	Why would the district attorney need to concur with the civil remedy?
433	Chair Mannix	If a shoplifter makes a "deal" with the store owner to a civil compromise, the district attorney can't prosecute the case. The ñ2 amendments state that the district attorney has to agree to that civil compromise.
<b>TAPE 161, B</b>		
005	Rep. Bowman	Can't storeowners press charges civilly and criminally in a shoplifting case? Then it is up to the district attorney to determine if he is going to prosecute the shoplifting case. My understanding is that these were two separate penalties available for one crime.
012	Chair Mannix	I pay my civil penalty to take care of the shopkeeper, but that doesn't mean there has been a civil compromise for prosecution purposes. The ñ2 amendments state that the district attorney has to agree to any civil compromise to prevent further prosecution.
021	Rep. Bowman	Do the ñ2 amendments address the issue of someone with resources being able to pay their way out of a criminal charge?
026	Chair Mannix	Yes. The district attorney could prosecute the shoplifter even if they paid the civil compromise.
030	Rep. Bowman	I still see someone with the resources having an advantage over someone with no money to pay the storeowner.
033	Chair Mannix	This restricts the advantage for the person with resources because the district attorney can step in and prosecute.
036	Rep. Prozanski	This is a policy shift with both sides advocating their position, but the court could go forward with prosecution. There is a conflict with line 3 of the ñ2 amendments because if we delete lines 9 through 11 of the bill, we delete the ñ1 amendments.
049	Counsel Horton	That was a mistake.
<b>054</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to SUSPEND the rules for the</b>

		<b>purpose of adopting a conceptual amendment.</b>
		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>054</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT a conceptual amendment to HB 2462 eliminating line 3 of the -2 amendments.</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
061	Rep. Bowman	Currently the defendant and the victim go before a judge with their civil compromise and the judge has to approve it?
064	Chair Mannix	Yes.
065	Rep. Prozanski	The judge has to agree to a civil compromise in a criminal proceeding. Discusses the difference between the civil proceeding for damages to the retailer and the criminal prosecution by the city or district attorney.
074	Rep. Hansen	This committee has talked a lot about victim's rights, and if the shopkeeper is the victim and they can get triple damages, why wouldn't we honor that?
080	Chair Mannix	A shoplifter could pay triple damages to a storeowner in a civil penalty. We are questioning the validity of doing a civil compromise of the criminal charges, and we are saying that can't be done without the approval of the district attorney.
091	Rep. Prozanski	Shopkeepers have asked me not to prosecute these cases because they don't want to lose time from their store for the proceeding. We have to decide if we are going to mandate a policy change on civil compromise or are we going to allow the court to make that decision?
105	<b>Dale Penn</b>	<b>Marion County District Attorney</b>  There are times when we object to the civil compromise and a judge would make the decision in the case. This change in policy would allow the district attorney to make the decision instead of the judge.

114	Chair Mannix	If a judge agrees to the civil compromise between an offender and the victim, can the case go to criminal prosecution if the district attorney objects to the compromise?
122	Penn	No.
130	Rep. Bowman	If the victim and the court are satisfied by the civil compromise, then the district attorney should be satisfied.
140	Chair Mannix	It is the right of the people to prosecute if a crime has been committed.
<b>151</b>	<b>Chair Mannix</b>	<b>VOTE: 4-3</b> <b>AYE: 4 - Gianella, Simmons, Sunseri, Mannix</b> <b>NAY: 3 - Bowman, Hansen, Prozanski</b>
	<b>Chair Mannix</b>	<b>The motion CARRIES.</b>
<b>158</b>	<b>Rep. Sunseri</b>	<b>MOTION: Moves HB 2462 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-2</b> <b>AYE: 5 - Gianella, Hansen, Simmons, Sunseri, Mannix</b> <b>NAY: 2 - Bowman, Prozanski</b>
	<b>Chair Mannix</b>	<b>The motion CARRIES.</b>  <b>REP. MANNIX will lead discussion on the floor.</b>
167	Chair Mannix	Closes the work session on HB 2462.
<b><u>HB 3052 WORK SESSION</u></b>		

179	Counsel Horton	Discusses the ñ1 amendments to HB 3052 relating to the Medical Marijuana Act and defines a person with primary custody ( <b>EXHIBIT J</b> ).
187	<b>Dale Penn</b>	<b>Oregon District Attorneyís Association</b>  Discusses the work group that crafted amendments to Ballot Measure 67, 1998, so the initiative could not be misused by commercial marijuana growers to shield criminal operations. Lines 6 through 22 of the ñ1 amendments deal with and define a person with "primary custody" of an ailing person under 18 years of age.
213	<b>Amy Klare</b>	<b>Oregonians for Medical Rights</b>  Testifies in support of HB 3052.
216	Rep. Prozanski	Does the portion of the ñ1 amendments dealing with "primary custody" address concerns that you had?
219	Klare	Yes.
220	Penn	Addresses lines 10 and 11 on page 2 of the ñ1 amendments (EXHIBIT J) and that there is no medical use of marijuana in a correctional or youth correctional facility.
229	Klare	We concur in those amendments.
230	Penn	The third amendment adds two other exclusions from the initiative itself. It limits the locations of a "grow" and limits the number of "grows". The address provided to the Health Division by the patient or primary caregiver is the only place you can grow medical marijuana.
259	Klare	We have agreed to these amendments.
264	Chair Mannix	Page 4, line 22, of the ñ1 amendments "lawful" should be "lawfully".
271	<b>Dr. Grant Higginson</b>	<b>Oregon Health Division</b>  Testifies as neutral to HB 3052. Our rules regarding medial marijuana are already in place with the Secretary of State, but they will have to be revised slightly to accommodate these amendments, if adopted. Nothing in the ñ1 amendments should hinder the operation of the registration system in any way.
289	Rep. Bowman	We have discussed the significant costs of the registration card. Has the Health Department and law enforcement talked about what will be done until that issue is resolved?

295	Dr. Higginson	The Health Department can charge only for their cost which is \$150, but if other funds become available, perhaps that fee can be reduced.
307	<b>Kevin Campbell</b>	<b>Association of Chiefs of Police</b>  We were involved in the work group, as well, and feel we have reached a compromise with the ñ1 amendments.
312	Rep. Prozanski	Is everyone in the work group satisfied with the amendments?
319	Klare	The ñ1 amendments do seem to reflect the agreement of the work group, but more time would be appreciated to study them.
333	Chair Mannix	Closes the work session on HB 3052.
<b><u>HB 3129 WORK SESSION</u></b>		
340	Chair Mannix	A review of the fiscal impact shows it would be over \$50,000.
344	<b>Rep. Prozanski</b>	<b>MOTION: Moves HB 3129 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
349	Chair Mannix	Closes the work session on HB 3129.
<b><u>HB 3057 WORK SESSION</u></b>		
355	Counsel Horton	Discusses the ñ1, ñ2 and ñ3 amendments to HB 3057 which incorporate the former HB 2623, identity theft, into HB 3057 ( <b>EXHIBITS K - M</b> ).
383	Rep. Prozanski	Expresses his concern with college kids using fake identification to get into bars and then being subject to this Class C felony of identity theft.
400	Chair Mannix	Where else would you use the false identification?

405	Rep. Prozanski	That would be where I could see kids using false ID the most. Trying to buy alcohol with false ID at a supermarket would give them an affirmative defense because you don't have to be 21 to get into the supermarket.
423	Chair Mannix	Discusses conceptual amendments that could be put in HB 3057 regarding a minor entering a premise that is prohibited to minors.
<b>TAPE 162, B</b>		
002	Rep. Hansen	It would be simpler if we could find language that the person used false identification to prove age.
013	Chair Mannix	We need to be precise about purchasing alcohol and tobacco with false ID because there are offenses there, but you can be generic about someone who uses another person's identity for misrepresenting age.
024	Counsel Horton	After line 21 we would insert a subsection (c) "solely for the purpose of misrepresenting their age"?
026	Chair Mannix	How about "for the purpose of misrepresenting someone's age to gain access to some benefit or admission to some event based upon age"?
028	Rep. Sunseri	If we used "gaining access to an establishment", that would include an X-rated movie or a bar.
034	Chair Mannix	Why do you use the word "solely"?
034	Counsel Horton	Because there is a "furnishing of false information" statute.
035	Chair Mannix	We will remove "solely" from the alcohol issue.
036	Rep. Prozanski	We want to make sure that someone being given a citation does not get away with issuing false information to a police officer.
041	Chair Mannix	Closes the work session on HB 3057.
<b><u>HB 3088 WORK SESSION</u></b>		
045	Counsel Horton	Discusses the 11 amendments to HB 3088 that allows a qualified entity to conduct criminal records checks for specified employment and licensing purposes ( <b>EXHIBIT N</b> ).
055	<b>Charles Williamson</b>	<b>Commercial Information Systems</b>



		These amendments state that the records check would be performed after 60 days and within 90 days because if a check was performed too soon, a subsequent arrest might be missed on the record.
059	Rep. Prozanski	Asks why SECTION 2, on page 5 of the original bill is being deleted?
060	Williamson	We didn't intend for that section to be put in the bill because it covers day care and those checks are done using a different database system. If it had remained in the bill, that section would have impaired the current procedure so we agreed to remove it.
067	Chair Mannix	Do you think an emergency clause would be helpful?
068	Williamson	Yes.
<b>069</b>	<b>Chair Mannix</b>	<b>MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment.</b>
		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>072</b>	<b>Rep. Sunseri</b>	<b>MOTION: Moves to ADOPT the conceptual amendment adding an emergency clause to HB 3088.</b>
		<b>VOTE: 6-1</b> <b>AYE: 6 - Gianella, Hansen, Prozanski, Simmons, Sunseri, Mannix</b> <b>NAY: 1 - Bowman</b>
	<b>Chair Mannix</b>	<b>The motion CARRIES.</b>
<b>079</b>	<b>Rep. Sunseri</b>	<b>MOTION: Moves to ADOPT HB 3088-1 amendments dated 04/14/99.</b>
081	Rep. Prozanski	Discusses that the final amendments to HB 3088 (EXHIBIT N) would allow a qualified outside company to run criminal background checks on individuals

		being hired for employment, and that the State would conduct a second check between 60 and 90 days from the initial check. Is this correct?
090	Williamson	The amendments do not provide for the State to do the second check. The provider could use the State for the second check or a private provider could do the second criminal background check.
093	Chair Mannix	But there is a second criminal background check provided for?
093	Williamson	Yes, it is required.
<b>096</b>		<b>VOTE: 5-2</b> <b>AYE: 5 - Gianella, Hansen, Simmons, Sunseri, Mannix</b> <b>NAY: 2 - Bowman, Prozanski</b>
	<b>Chair Mannix</b>	<b>The motion CARRIES.</b>
<b>101</b>	<b>Rep. Sunseri</b>	<b>MOTION: Moves HB 3088 to the floor with a DO PASS AS AMENDED recommendation.</b>
103	Rep. Bowman	Previous testimony on HB 3088 lead us to believe that commercially available background check services were not compatible with the State services, and additional costs could be incurred, so I am opposed to this bill.
108	Rep. Prozanski	I recall testimony that the private providers do not have access to all of the same databases that the State has access to. If that is the case, and both background checks were run through the private entity, there is the possibility that some databases with essential information would not be utilized.
<b>125</b>		<b>VOTE: 5-2</b> <b>AYE: 5 - Gianella, Hansen, Simmons, Sunseri, Mannix</b> <b>NAY: 2 - Bowman, Prozanski</b>
	<b>Chair Mannix</b>	<b>The motion CARRIES.</b>  <b>REP. SIMMONS will lead discussion on the floor.</b>

132	Chair Mannix	Closes the work session on HB 3088.
<b><u>HB 3158 WORK SESSION</u></b>		
137	Counsel Horton	Discusses the ñ1 amendments to HB 3158 that requires a person who supervises a youth offender to notify a school district when a youth offender transfers to that school district ( <b>EXHIBIT O</b> ). The ñ1 amendments clarify that the person to be notified is the superintendent of the school district.
<b>159</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT HB 3158-1 amendments dated 04/22/99.</b>
162	Rep. Bowman	Do the ñ1 amendments say that the superintendent of the school district is the person to be notified?
164	Chair Mannix	Yes.
165	Rep. Bowman	Do we need to set a process for how that information gets to the school building?
167	Chair Mannix	That would become the responsibility of the superintendent.
168	Rep. Bowman	Would the superintendent then develop policy for how that information gets to the schools and what information is appropriate to give them?
170	Chair Mannix	Yes.
<b>171</b>		<b>VOTE: 7-0</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>172</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves HB 3158 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>

	Chair Mannix	<p>Hearing no objection, declares the motion <b>CARRIED</b>.</p> <p><b>REP. GIANELLA will lead discussion on the floor.</b></p>
178	Chair Mannix	Closes the work session on HB 3158.
<b><u>HB 3276 WORK SESSION</u></b>		
187	Counsel Horton	Discusses the 8 amendments to HB 3276 that prohibit a person under 18 years of age from possessing an inhalant used to induce intoxication ( <b>EXHIBIT P</b> ). The 8 amendments state that the sign warning of the dangers of inhalants shall be posted at the discretion of the storeowner.
<b>199</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT HB 3276-8 amendments dated 04/23/99.</b>
200	Rep. Sunseri	If we have reduced posting this warning sign to the discretion of the shop owners, what is the point?
203	Chair Mannix	There will be an education campaign and shop owners will be encouraged to post the warning signs. I received letters from businesses indicating there would be problems with a mandated posting because of inconsistencies with federal regulations.
220	Rep. Bowman	I am concerned with the kids on the street who may be carrying breath spray or magic markers in their backpacks. Is law enforcement going to stop them and search these bags?
241	Rep. Prozanski	Under Oregon law, law enforcement would not be able to carry out a search and seizure for a violation.
246	Rep. Bowman	If the second or subsequent violation becomes a misdemeanor, what has to happen to get the first violation?
249	Chair Mannix	If a parent comes across their child with an inhalant in hand, they can turn the child into the juvenile department. It must be established that the child intended to use the inhalant for the purpose of inducing intoxication, and that this behavior is against the law.
275	Rep. Bowman	By the time it becomes evident that this young person is using inhalants, you are talking about a criminal conviction that may require some treatment. I thought our original goal was to educate the public and direct them where to get treatment for this activity. We are criminalizing the behavior without offering treatment.

301	Rep. Simmons	I am concerned with page 3, line 16 about merchants being encouraged to post signs. Will the rule be so broadly interpreted that "shall encourage" means "must"?
310	Chair Mannix	If we wanted to say, "merchants <i>are</i> required", we would say that. When we say, "shall encourage", we mean it has to be voluntary with encouragement to post, but no requirement imposed to post the signs.
322	Rep. Hansen	Discusses the problem with the signage drawing attention to products that a child may not have known could be used as an inhalant.
362	Rep. Gianella	I understood that the signs were going to be posted just at the cash registers, not at the products.
367	Chair Mannix	The bill does not specify where the signs should be posted.
374	Rep. Bowman	What about making a conceptual amendment to come back in two years to see if this legislation has had an impact?
387	Rep. Gianella	We can always change the bill next session.
393	Chair Mannix	I think a conceptual amendment about coming back in two years would be too difficult to write up at this time.
403	Rep. Hansen	Could this be set over until Thursday to get an amendment back?
410	Chair Mannix	I'm not going to do that because this bill has been pending long enough.
425		<b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Rep. Prozanski</b>
	<b>Chair Mannix</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
432	<b>Rep. Sunseri</b>	<b>MOTION: Moves HB 3276 to the floor with a DO PASS AS AMENDED recommendation.</b>

		<p><b>VOTE: 6-0-1</b></p> <p><b>EXCUSED: 1 - Rep. Prozanski</b></p>
	Chair Mannix	<p>Hearing no objection, declares the motion <b>CARRIED</b>.</p> <p><b>REP. BACKLUND</b> will lead discussion on the floor.</p>
437	Chair Mannix	Closes the work session on HB 3276.
<b>TAPE 163, A</b>		
<b><u>HB 3376 WORK SESSION</u></b>		
022	Counsel Horton	HB 3376 expands criminal trespass involving railroad tracks.
<b>028</b>	<b>Rep. Mannix</b>	<b>MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment.</b>
		<p><b>VOTE: 5-0-2</b></p> <p><b>EXCUSED: 2 - Rep. Prozanski, Rep. Sunseri</b></p>
	Chair Mannix	Hearing no objection, declares the motion <b>CARRIED</b> .
<b>030</b>	<b>Rep. Hansen</b>	<b>MOTION: Moves to ADOPT the conceptual amendment removing "county" from line 17, page 1 of HB 3376.</b>
		<p><b>VOTE: 5-0-2</b></p> <p><b>EXCUSED: 2 - Rep. Prozanski, Rep. Sunseri</b></p>
	Chair Mannix	Hearing no objection, declares the motion <b>CARRIED</b> .

034	Rep. Hansen	<b>MOTION: Moves HB 3376 to the floor with a DO PASS AS AMENDED recommendation.</b>
035	Rep. Bowman	What about young people hanging out on the tracks and this penalty being too stiff with regards to youthful exuberance?
042	Chair Mannix	Prosecutors have the option of dropping Class A misdemeanors to violations.
053	Rep. Bowman	Depending upon what county and whether this type of case would be prosecuted in that county would be an unequal application of the law. We continue to criminalize behavior that as a child was just plain fun.
064	Chair Mannix	Playing on railroad tracks is criminal behavior now, but this bill raises it to a higher level of violation.
066	Rep. Bowman	Why pass the law if it is left up to 36 different counties and 36 different district attorneys to prosecute?
073	Chair Mannix	<b>VOTE: 4-2-1</b> <b>AYE: 4 - Gianella, Hansen, Simmons, Mannix</b> <b>NAY: 2 - Bowman, Prozanski</b> <b>EXCUSED: 1 - Sunseri</b>
	Chair Mannix	<b>The motion CARRIES.</b> <b>REP. MANNIX will lead discussion on the floor.</b>
088	Chair Mannix	Closes the work session on HB 3376.
120	Chair Mannix	Adjourns the meeting at 10:13 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Administrator

**EXHIBIT SUMMARY**

**A - HB 2705, -1 amendments (LC 2946), dated 4/26/99, staff, 2 pgs.**

**B - HB 2705, -2 amendments (LC 2946), dated 4/26/99, staff, 1 pg.**

**C - HB 3051, -1 amendments (LC 2383), dated 4/20/99, staff 4 pgs.**

**D - HB 3105, -1 amendments (LC 3524), dated 4/22/99, staff, 1 pg.**

**E - HB 3105, -2 amendments (LC 3524), dated 4/26/99, staff, 1 pg.**

**F - HB 3129, -1 amendments (LC 3574), dated 4/23/99, staff, 1 pg.**

**G ñ HB 3129, -2 amendments (LC 3574), dated 4/23/99, staff, 1 pg.**

**H - HB 2462, -1 amendments (LC 2129), dated 4/26/99, staff, 1 pg.**

**I - HB 2462, -2 amendments (LC 2129, dated 4/26/99, staff, 1 pg.**

**J - HB 3052, -1 amendments (LC 2382), dated 4/27/99, staff, 5 pgs.**

**K - HB 3057, -1 amendments (LC 3415), dated 4/26/99, staff, 5 pgs.**

**L - HB 3057, -2 amendments (LC 3415), dated 4/26/99, staff, 5 pgs.**

**M - HB 3057, -3 amendments (LC 3415), dated 4/26/99, staff, 5 pgs.**

**N - HB 3088, -1 amendments (LC 2994), dated 4/14/99, staff, 1 pg.**

**O - HB 3158, -1 amendments (LC 3289), dated 4/22/99, staff, 1 pg.**

**P - HB 3276, -8 amendments (LC 3305), dated 4/23/99, Rep. Vic Backlund, 4 pgs.**

**Q - HB 3378, written testimony submitted by Jeanne Robinson, Pioneer Cemetery Commission, 5 pgs.**