

## **HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW**

**May 19, 1999 Hearing Room 357**

**8:30 a.m. Tapes 201 - 202**

**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:**

**SB 35 B Work Session**

**HB 2352 Work Session**

**HB 3049 Work Session**

**SB 482 Public Hearing**

**SB 345 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
<b>TAPE 201, A</b>		
006	Chair Mannix	Calls the meeting to order at 9:00 a.m.
<b><u>SB 482 PUBLIC HEARING</u></b>		
024	Counsel Horton	SB 482 creates liquidated damage award of \$1,000 for sports official that is subjected to offensive physical contact during a sporting event.
037	<b>Rep. Al King</b>	<b>State Representative, House District 44</b>  Testifies and submits written testimony in support of SB 482 ( <b>EXHIBIT A</b> ). Discusses that referee assault prevention is necessary because upstanding citizens can go berserk as a member of the audience at sporting events.
078	Rep. Bowman	Isn't assault considered assault whether you are in a referee uniform or not?
081	Rep. King	Discusses that officials have the responsibility to face difficult crowds at sporting events.
100	Chair Mannix	Reads the definition of harassment from ORS 166.065, line 1, page 2 of SB 482. Should there be a different subsection to harassment that would include "provoking a response to intimidate another person"? The liquidated damages of \$1,000 are a good sanction for a civil action.
148	Rep. King	A threat or intimidation to an official is what we are worried about. We are trying to teach kids to keep themselves under control, so as a way to keep the adults under control we would like to impose the \$1000 fine.
174	Rep. Prozanski	How was \$1,000 decided upon, and who is going to be the recipient of the money?
176	Rep. King	There would be a limit of \$1,000 in damages and I understand the referee would be the recipient of the money.
188	<b>Tom Welter</b>	<b>Oregon School Activities Association (OSAA)</b>  Testifies in support of SB 482 and submits OSAA "Ejection Policies" ( <b>EXHIBIT B</b> ). Discusses confrontational physical incidents that have occurred in Oregon at sporting events in the last year. Each incident shows the hazards that officials can experience when officiating at sporting events. We need to protect our officials at all sporting events without fear for their safety.
290	<b>Marcus Eng</b>	<b>Founder, Mid-Valley Sports Officials</b>

		Testifies in support of SB 482. We are trying to send the message to the public that it is not open season on officials at sporting events. The number of officials is declining because they fear for their safety on the playing fields.
342	<b>Mark Padgett</b>	<b>National Association of Sports Officials</b>  Testifies and submits written testimony in support of SB 482 ( <b>EXHIBIT C</b> ). Youth sports programs are the most cost-effective means of gang prevention teaching kids fair play, sportsmanship, and respect for authority. Coaches and parents are supposed to be role models, but when they abuse the officials, it is sending the message that violence is an acceptable means to deal with anger. With the escalation of violence, it is getting harder to get officials. The real value in SB 482 bill will be in the publicity because this information will go in every registration form that goes to every parent and coach. There are 12 states that already have this legislation.
408	<b>Robert Price</b>	<b>Portland Baseball Umpires Association</b>  Testifies in support of SB 482. We, as officials, are looking for protection, recourse and a deterrent from the physical violence that is occurring on our playing fields. When I see violence against officials on television, it makes me afraid to go out and officiate.
<b>TAPE 202, A</b>		
023	Rep. Sunseri	There are laws against assault and the kinds of things that you are describing sound like assault. If we are not enforcing the existing laws, why will having one more law do you any good?
034	Padgett	Discusses the fact that judges do not take assault seriously when it occurs at a sporting event. This legislation would make judges aware of the problems that are occurring specifically for sports officials.
045	Rep. Prozanski	I see two components to this bill: the criminal side is raising the penalty to a Class A misdemeanor, and the other side is civil where a penalty would be paid if inappropriate conduct occurred and the judge imposes the \$1,000 fine. I wonder why district attorneys are not pursuing criminal action against these assaults on officials?
071	Eng	Discusses an assault case that was filed in Silverton when an official was hit after a sporting event and the police said it wasn't assault.
079	Chair Mannix	Class B and Class C misdemeanors are not likely to be prosecuted in Marion County because of resource problems. Moving this to a Class A misdemeanor may get it prosecuted, but that is not a guarantee.
098	Rep. Prozanski	The occurrence you cited was assault and should have been prosecuted.
105	Padgett	The same attitude is going through the criminal justice system that certain

		behaviors are allowed at sporting events that don't happen in everyday life. <i>Sports Illustrated</i> ran a cover stating "Kill the Ump".
117	Rep. Gianella	I see the value in this legislation as a deterrent to crime when the public gets educated about the sanctions.
124	Chair Mannix	The \$1,000 civil fine should alert people that certain behavior will not be tolerated at sporting events.
140	Rep. Hansen	Are you getting support from leagues, principals and sporting associations to remove coaches who use intimidation tactics?
148	Padgett	A coach hit an official in a sporting event and has been banned from coaching for life.
167	Rep. King	An organization might have thousands of coaches and it is often difficult to get that message out to everyone.
176	<b>Wes Ediger</b>	<b>Oregon School Activities Association</b>  Testifies in support of SB 482.
185	Chair Mannix	Closes the public hearing on SB 482.
<b><u>HB 2352 WORK SESSION</u></b>		
188	Chair Mannix	HB 2352 directs the Secretary of State to include a specified statement in voters' pamphlet or with the ballot at a special election. Introduces the 4 amendments <b>(EXHIBIT D)</b> .
197	<b>Rep. Simmons</b>	<b>MOTION: Moves to ADOPT HB 2352-4 amendments dated 05/13/99.</b>
		<b>VOTE: 4-2-1</b>  <b>AYE: 4 - Gianella, Simmons, Sunseri, Mannix</b>  <b>NAY: 2 - Hansen, Prozanski</b>  <b>EXCUSED: 1 - Bowman</b>
	<b>Chair Mannix</b>	<b>The motion CARRIES.</b>

212	Rep. Simmons	<b>MOTION: Moves HB 2352 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-2-1</b>  <b>AYE: 4 - Gianella, Simmons, Sunseri, Mannix</b>  <b>NAY: 2 - Hansen, Prozanski</b>  <b>EXCUSED: 1 - Bowman</b>
	Chair Mannix	<b>The motion CARRIES.</b>  <b>REP. MANNIX will lead discussion on the floor.</b>
229	Chair Mannix	Closes the work session on HB 2352.
<b><u>HB 3049 WORK SESSION</u></b>		
240	Chair Mannix	HB 3049 prohibits a suit by a city or county against firearms manufacturer or dealer for damages resulting from design, manufacture, marketing or sale of firearms. Introduces the ñ3 amendments to HB 3049 ( <b>EXHIBIT E</b> ).
243	Rep. Sunseri	<b>MOTION: Moves to ADOPT HB 3049-3 amendments dated 05/19/99.</b>
245	Chair Mannix	Explains the difference between the ñ2 amendments ( <b>EXHIBIT F</b> ) which direct the Attorney General to make a study of lawsuits and the ñ3 amendments that direct Legislative Counsel to make the study.
254	Rep. Prozanski	Why are we allocating money, how much, and how much time will that money actually buy for legal services?
263	Chair Mannix	Discusses the referral to Ways and Means when only \$25,000 is appropriated.
276	Rep. Prozanski	Why was Section 3, page 1 of the ñ3 amendments included in this legislation?
280	Chair Mannix	Explains that the original bill stated that local governments could not bring lawsuits against manufacturers. The amendments say that there must be a study and the Attorney General may not bring a lawsuit against firearms manufacturers unless authorized by the Legislature.

294	Rep. Prozanski	How does Section 3 fit into the remainder of the bill regarding a study to be performed by Legislative Counsel?
300	Chair Mannix	Section 3 helps "freeze" legal action while the study is being conducted by Legislative Counsel.
344	Rep. Prozanski	What does this do to a private citizen who files action against a gun manufacturer?
348	Chair Mannix	This does not prevent a private citizen from bringing a lawsuit.
357	Rep. Bowman	Would HB 3049 prohibit Oregon from joining in a lawsuit like the tobacco one and sharing in punitive damages?
369	Chair Mannix	It would prohibit a lawsuit unless the Legislative Assembly approved it after evaluating the report from Legislative Counsel.
375	Rep. Bowman	Why was Legislative Counsel chosen to do this study?
377	Chair Mannix	They are available to the legislative assembly for legal research and are answerable to the Legislative Assembly, as opposed to the Attorney General.
390	Rep. Hansen	Would this prevent a city from a lawsuit if a firearm blew up in the hand of a law enforcement officer?
399	Rep. Sunseri	That is covered in Section 1, subsection 2 on page 1 of HB 3049.
403	Rep. Hansen	I cannot see where the state has a compelling interest in telling every city and county what lawsuits are or aren't in their best interest. This is an incredible preemption toward the ability of cities and counties to make their own decisions.
<b>TAPE 201, B</b>		
007	Rep. Prozanski	I don't see safeguards in the 3 amendments (EXHIBIT E) on a breach of contract or warranty if law enforcement does have something go wrong with their firearms. Is there a fiscal impact statement for the 3 amendments?
024	Counsel Horton	No.
<b>028</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>033</b>	<b>Rep. Sunseri</b>	<b>MOTION: Moves HB 3049 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
036	Rep. Prozanski	Objects to moving HB 3049 out of committee without a fiscal impact on the ñ3 amendments.
<b>043</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>
047	Chair Mannix	Closes the work session on HB 3049.
<b><u>SB 35B WORK SESSION</u></b>		
053	Counsel Horton	Discusses the ñ3 amendments to SB 35B as proposed by the Teachers Standards and Practices Commission that allows the Teacher Standards and Practices Commission to issue a license to a person convicted of a crime after specified time periods have elapsed since the date of the conviction ( <b>EXHIBIT G</b> ).
061	Greg McMurdo	<b>Oregon Department of Education</b>  Testifies in support of the ñ3 amendments.
062	David Myton	<b>Teacher Standards and Practices Commission</b>  Testifies in support of the ñ3 amendments.
064	Rep. Bowman	What are the actual changes in the ñ3 amendments?
066	McMurdo	Two crimes have been added that were enacted during the last Legislative

		Assembly but were inadvertently left out of the statute: ORS 163.688 and ORS 163.689 regarding possession of materials depicting sexually explicit conduct of a child.
081	Rep. Sunseri	<b>MOTION: Moves to ADOPT SB 35B-3 amendments dated 05/14/99.</b>
		<b>VOTE: 6-1</b> <b>AYE: 6 - Gianella, Hansen, Prozanski, Simmons, Sunseri, Mannix</b> <b>NAY: 1 - Bowman</b>
	Chair Mannix	<b>The motion CARRIES.</b>
089	Rep. Sunseri	<b>MOTION: Moves SB 35B to the floor with a DO PASS AS AMENDED recommendation.</b>
091	Rep. Bowman	Objects to the fact that the previously proposed time limits for reconsideration of a teaching license have been deleted in the ñ3 amendments.
106		<b>VOTE: 4-3</b> <b>AYE: 4 - Gianella, Simmons, Sunseri, Mannix</b> <b>NAY: 3 - Bowman, Hansen, Prozanski</b>
	Chair Mannix	<b>The motion CARRIES.</b>  <b>REP. MANNIX will lead discussion on the floor.</b>
110	Rep. Bowman	Gives notice of a possible minority report.
113	Chair Mannix	Closes the work session on SB 35B.



**SB 345 PUBLIC HEARING**

121	Counsel Horton	SB 345 replaces the list of various occupations with term public safety personnel or public safety officer in statutes dealing with the Board on Public Safety Standards and Training and the Department of Public Safety Standards and Training.
126	Chair Mannix	Does SB 345 give you flexibility about how you handle the various classifications so that every time a new classification is created you don't have to come up with a new definition and statutory change?
128	<b>Dianne Middle</b>	<b>Executive Director, Department of Public Safety Standards and Training (DPSST)</b>  Yes. Testifies and submits testimony in support of SB 345 ( <b>EXHIBIT H</b> ). It also allows DPSST to combine resources with other entities to allow for more training at DPSST and also collect fees to support more advanced training.
132	Chair Mannix	Was there any objection to this bill in the Senate?
132	Middle	Any previous objections have been worked out through amendments.
134	<b>Kevin Campbell</b>	<b>Oregon Association Chiefs of Police</b>  Testifies in support of SB 345.
149	Chair Mannix	Closes the public hearing on SB 345.
149	Chair Mannix	Adjourns the meeting at 10:10 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Administrator

**EXHIBIT SUMMARY**

**A - SB 482, written testimony submitted by Rep. Al King, District 44, 1 pg.**

**B - SB 482, written testimony submitted by Tom Welter, OSAA, 1 pg.**

**C - SB 482, written testimony submitted by Mark Padgett, NASO, dated 5/19/99, 1 pg.**

**D - HB 2352, -4 amendments (LC 1829), dated 5/13/99, staff, 2 pgs.**

**E - HB 3049, -3 amendments (LC 2927), dated 5/19/99, staff, 2 pgs.**

**F - HB 3049, -2 amendments (LC 2927), dated 5/13/99, staff, 2 pgs.**

**G - SB 35B, -B3 amendments (LC 1556), dated 5/14/99, Teacher Standards & Practices Commission, 2 pgs.**

**H - SB 345, written testimony submitted by Dianne Middle, DPSST, dated 5/19/99, 4 pgs.**