

SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS

May 3, 1999 Hearing Room C

1:00 PM Tapes 105 - 107

MEMBERS PRESENT: Sen. David Nelson, Chair

Sen. Lee Beyer, Vice-Chair

Sen. Rick Metsger

Sen. Randy Miller

Sen. Charles Starr

MEMBER EXCUSED:

STAFF PRESENT: Y. Sherry Sheng, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

HB 2588 Public Hearing and Work Session

SB 1115 Work Session

SB 1049 Work Session

HB 2856 Public Hearing and Work Session

HB 2984 Public Hearing and Work Session

SB 953 Work Session

SB 1257 Work Session

SB 957 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 105, A		

003	Chair Nelson	Opens the meeting at 1:00 PM. Opens public hearing on HB 2588.
<u>HB 2588 PUBLIC HEARING</u>		
004	Rep. Kathy Lowe	House District 26. Asks committee to favorably consider HB 2588. Explains the emergency clause that is needed in the bill. HB 2588 allows a tenant to terminate rental agreement without penalty due to their certain status changes associated with military service.
010	Rep. Max Williams	House District 9. Supports SB 2588 with the emergency clause.
053	Col. Mike Caldwell	Oregon National Guard. Explains HB 2588 and the amendment that will impact national guardsmen. This is primarily for reservists and national guardsmen. Supports HB 2588 as amended.
080	Sharon Fleming-Barrett	Oregon Rental Housing Association. Supports HB 2588.
086	Major Theresa Peterson	Oregon Military Department. Supports HB 2588. Says she is here to answer any questions.
095	Staff	Submits (EXHIBIT A) .
096	Chair Nelson	Closes public hearing. Opens work session on HB 2588.
<u>HB 2588 WORK SESSION</u>		
098	Chair Nelson	MOTION: Moves to ADOPT HB 2588-3 amendments dated 5/3/99.
VOTE: 5-0 -		
100	Chair Nelson	Hearing no objection, declares the motion CARRIED.
102	Chair Nelson	MOTION: Moves HB 2588 be sent to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0

103	Chair Nelson	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. METSGER will lead discussion on the floor.</p>
104	Chair Nelson	Closes work session on HB 2588. Opens work session on SB 1115.
<u>SB 1115 WORK SESSION</u>		
104	Sherry Sheng	Committee Administrator. Gives background on bill and previous public hearing. SB 1115 modifies the scope of public policy in statutes relating to organized labor and labor disputes. There has been no amendment offered to this bill.
166	Chair Nelson	Asks if the agriculture employers and farms are represented. Says this bill was vetoed by the Governor in 1997.
176	Tim Bernasek	Oregon Farm Bureau. States the Governor was concerned that the bill was written so that workers could be discharged for discussing wages and working conditions on the job. Explains the concern with the <i>Oregon Roses</i> case.
190	Sheng	Refers committee members to the Governor's letter, Section 7.
195	Chair Nelson	Refers to a copy of the veto letter from the Governor.
210	Sen. Miller	Comments on the letter that says the Governor does not know if he will veto the bill at this point in the 1999 Session.
220	Michael Dale	Oregon Law Center. Says SB 1115 would not protect workers under conditions such as in <i>Oregon Roses</i> case. Opposes SB 1115. Says the bill needs broader answers to the rights of farm workers. Other legislation has been offered to clarify workers' rights.
244	Sen. Beyer	Asks if the <i>Oregon Roses</i> case is still pending.
246	Dale	Answers the <i>Oregon Roses</i> case is before the Oregon Supreme Court. Says it was heard 13 months ago and is still pending.
	Sen. Beyer	Asks how SB 1115 would affect the <i>Oregon Roses</i> case
258	Dale	Refers to SB 1115 and reads lines that would overrule the Oregon Court of Appeals decision in the <i>Oregon Roses</i> case.
271	Bernasek	Explains that there are potential remedies. SB 1115 does not directly affect the

		case.
300	Dale	Explains the affect of this bill. Says the provisions that would overrule the court case are no longer an Oregon policy.
320	Sen. Beyer	Asks if there any other cases.
325	Dale	Answers there is one other case pending.
330	Chair Nelson	Asks for questions.
310	Tim Bernasek	Says the policy in effect has been there for 60 years.
370	Sen. Miller	Asks if this bill is different from SB 1205, and what has changed the Governoris opinion.
358	Dale	Answers that this ought to be worked out by negotiations between the affected parties, based on discussions with members of the Governoris office.
388	Sen. Beyer	Says since <i>Oregon Roses</i> has not been decided, the Supreme Court could overturn the case in the Appeals Court.
410	Bernasek	Agrees that there should be some agreement on what the bill should look like.
414	Dale	Says the center has submitted language that recognizes basic fundamental rights for farm workers.
TAPE 106, A		
014	Sen. Metsger	Explains that, when the cases are not already decided, he opposes the bill, until the court makes their decision.
028	Sen. Beyer	Says he is reluctant to get in the way of the courts. There are good arguments on both sides. Comments on the hope that the two sides can come to an agreement.
037	Sen. Starr	Says the clear intent through the years was to exclude farm activity. Says this bill will clarify that and guide future courts. Supports SB 1115.
048	Sen. Miller	Comments the committee should proceed.
050	Chair Nelson	MOTION: Moves SB 1115 to the floor with a DO PASS recommendation.

		VOTE: 3-2 AYE: 3 ñ Miller, Starr, Nelson NAY: 2 ñ Beyer, Metsger
051		The motion CARRIES. SEN. STARR will lead discussion on the floor.
053	Chair Nelson	Closes work session on SB 1115. Opens work session on SB 1049.
<u>SB 1049 WORK SESSION</u>		
079	Sheng	Gives background on SB 1049 and previous public hearing on the bill. Explains the ñ1 amendments which remove references and provisions related to commission sales from SB 1049. States there are interested parties present to answer questions. Submits (EXHIBIT B) .
095	Chair Nelson	MOTION: Moves to ADOPT SB 1049-1 amendments dated 5/3/99.
		VOTE: 5-0
096	Chair Nelson	Hearing no objection, declares the motion CARRIED.
097	Chair Nelson	MOTION: Moves SB 1049 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0
098	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. MILLER will lead discussion on the floor.
118	Chair Nelson	Asks for questions. Closes work session on SB 1049. Opens public hearing on HB 2856.

HB 2856 PUBLIC HEARING

122	Fleming-Barrett	Oregon Rental Housing Association. Explains the bill which prohibits a landlord from requiring the use of a non-removable identifying device which might indicate to the public where the tenant lives.
135	Chair Nelson	Closes public hearing. Opens work session on HB 2856.

HB 2856 WORK SESSION

136	Chair Nelson	MOTION: Moves HB 2856 to the floor with a DO PASS recommendation.
		VOTE: 5-0
138	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.
140	Chair Nelson	Closes work session on HB 2856. Opens public hearing on HB 2984.

HB 2984 PUBLIC HEARING

220	John Brenneman	Representing Recreation Vehicle Association (RVA). Gives background on HB 2984. The bill places \$50,000 limit on court awarded damages in specified actions against motor vehicle manufacturers who do not act in good faith. Presents (EXHIBIT C) .
264	Enoch Hutchcraft	Manufacturer of recreational vehicles. Describes the labor market and costs in the RV industry. Refers to a case in which the company agreed to return the cost of a vehicle to a complaining consumer, but the consumer sued for additional funds. Presents (EXHIBIT D) .
289	Chair Nelson	Asks about the lemon law.
290	Hutchcraft	Current law says four failed attempts to repair a substantial defect result in a lemon. Oregon says the entire recreational vehicle is covered including the household appliances
300	Chair Nelson	Asks if there are articles that they do not manufacture that may be defective.

316	Sen. Metsger	Asks if the Oregon lemon law applies to all manufacturers or just Oregonis.
317	Hutchcraft	Responds the law applied to all manufacturers.
324	Sen. Metsger	Asks why this exception was not separate from motor vehicles.
332	Hutchcraft	Says he does not know why motorhomes were put under the same umbrella. There was some testimony on the House side, but at that time the number of motorhomes was very small.
338	Brenneman	Says the lemon law was primarily for automobiles and the inclusion of recreational vehicles without adequate language was primarily an oversight.
358	Bob Olson	Oregon State Bar, consumer law section. States the bar is neutral on new language of HB 2984. The bar wants to restore the original language. Presents (EXHIBIT E) .
376	Pete Shepherd	Fraud section, Department of Justice (DOJ). Says the original bill raised from \$200 to \$1,000 the minimum recovery by a plaintiff in unlawful trade practices suits.
TAPE 105, B		
011	Shepherd	Supports HB 2984. Discusses statutes of limitations. Asks that amendments be supported and the original statute of limitations be restored.
033	Sen. Beyer	Asks what happened to the bill in the House.
036	Shepherd	Says he does not know the motivations. No one testified in opposition to it.
043	Sen. Metsger	Asks why this changed and if there are objections to Section 1.
047	Brenneman	Says he does not want to go back to the House again for a vote.
073	Sen. Metsger	Says both elements are good.
078	Olson	Supports moving the bill.
084	Chair Nelson	Asks for questions.
090	Sen. Miller	Supports the bill.

100	Sen. Beyer	Supports the bill.
102	Chair Nelson	Closes public hearing. Opens work session on HB 2984.
<u>HB 2984 WORK SESSION</u>		
103	SEN. MILLER	MOTION: Moves 2984 to the floor with a DO PASS recommendation.
		VOTE: 5-0
104	Chair Nelson	<p>The motion CARRIES.</p> <p>SEN. CORCORAN and SEN. NELSON will lead discussion on the floor.</p>
106	Chair Nelson	Closes work session on HB 2984. Opens work session on SB 953.
<u>SB 953 WORK SESSION</u>		
138	John Gervais	Representing National Association of Credit Managers and Paul Phillips. Supports SB 953 and amendments. States the Construction Contractors Board and the Home Builders support this bill. Explains the bill raises the bonds to \$10,000 and \$15,000. On the \$10,000 the access to money would increase only \$500. Increased to \$15,000, the access would be \$37.50. Says this bill will cut down litigation.
164	Ken Keudell	Construction Contractors Board. With the ñ1 amendments the non-owners have access to \$2,000, or 25 percent of the bond. Explains the ñ2 amendments. Presents (EXHIBIT F) .
220	Jerry Van Skoy	Floor Covering Contractors. Says SB 953 should diminish some leans. Says the court is not a remedy for contractors.
223	Staff	Submits (EXHIBIT G) .
224	Chair Nelson	Says discussions will be carried on. Closes work session on SB 953. Opens work session on SB 1257.
<u>SB 1257 WORK SESSION</u>		

246	Sheng	Explains the amendments to SB 1257. Says there are individuals present who can answer questions. Submits (EXHIBIT H) .
258	Sen. Beyer	Asks what the changes from the original bill are.
262	Sheng	Explains that the original bill has been changed to more specific language, giving the preference to construction to bid only on construction materials.
278	Sen. Starr	Likes the concept, but thinks 7 percent is too high. Says 4 or 5 percent would be all right.
292	Dugan Petty	State Purchasing Manager, Department of Administrative Services (DAS). Explains the original bill set the range between 5 and 10 percent for preference.
299	Sen. Miller	Suggests the preference should be set at 3 percent.
345	Sen. Starr	MOTION: Moves to AMEND SB 1257 changing the preference to 5 percent.
		VOTE: 4-1 AYE: 4 n Beyer, Metsger, Starr, Nelson NAY: 1 n Miller
350	Chair Nelson	The motion CARRIES.
370	Dugan Petty	Explains the price preference part of SB 1257.
410	Sheng	Asks if the preference is determined when calculating the award amount.
412	Petty	Explains applying a 5 percent preference to the portion of recycled materials. The preference is determined when calculating the award amount.
415	Sen. Starr	Refers to page 2 of amendment. Says the 5 percent additional cost does not apply.
TAPE 106, B		
020	Petty	Replies that is correct.

026	Sen. Starr	Says the 5 percent is exempted if the state agency decides to use a substitution, and that could bid up a project.
028	Chair Nelson	Asks for questions.
030	Sheng	Asks if the circumstances for state agencies to include recycled materials in the specifications could be addressed.
035	Petty	Replies that in certain circumstances, certain materials may be specified by an architect or the agency.
054	Sen. Starr	Discusses the need to explain terms of "specifying recycled" and "new materials." Says preference should have cost accountability that explains how money is spent.
071	Sen. Beyer	Says this bill does not really affect whoever sets the specifications using recycled materials.
079	Chair Nelson	Asks for questions.
081	Sen. Starr	MOTION: Moves to AMEND SB 1257 by removing part 4, Section 1.
080	Sen. Metsger	Says that would raise the cost tremendously.
084	Sen. Beyer	Says he disagrees, taking out that section would not make any difference in cost. In projects where the designer specified recycled material, every bidder would need to include that in the bid. It would not hurt to take it out.
		VOTE: 4-1 AYE: 4 - Beyer, Miller, Starr, Nelson NAY: 1 - Metsger
085	Chair Nelson	The motion carries.
086	Sen. Beyer	MOTION: Moves to ADOPT SB 1257-2 amendments dated 5/3/99.
		VOTE: 3-2 AYE: 3 - Beyer, Metsger, Nelson NAY: 2 - Miller, Starr

087	Chair Nelson	The motion CARRIES.
088	Sen. Beyer	MOTION: Moves SB 1257 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-2 AYE: 3 - Metsger, Miller, Nelson NAY: 2 ñBeyer, Starr
089	Chair Nelson	The motion CARRIES. SEN. CASTILLO will lead discussion on the floor.
090	Chair Nelson	Closes work session on SB 1257. Opens work session SB 957.
<u>SB 957 WORK SESSION</u>		
150	Chair Nelson	Comments that this bill was heard by the committee last week. Senator Hannon has submitted a letter of support for SB 957.
153	Sheng	Relates the concerns of the State Fire Marshal's office that are the anticipated increase in workload to monitor and enforce cardlock use and the proposal to eliminate the annual \$5 fee for nonretail customers.
215	Brian Griffin	Cardlock program, Fire Marshal's office. The concern is not limiting the gallons, but the \$5 annual fee that brings in \$397,870 per biennium which is the source of funding for the audit procedures.
224	Sen. Miller	Asks if the audit is the only recipient of the \$5 fee.
225	Griffin	Answers the \$5 covers the audit for the program which involves one audit per year of the cardlock facilities and nothing else.
228	Sen. Starr	Asks what the purpose of the audit is.
230	Griffin	Answers the purpose of the audit is to monitor the cardlock facilities to verify that they are selling to businesses, and not to unauthorized customers.

222	Sen. Miller	Says he has witnessed customers filling their own tank at retail sales facilities. Asks if this happens frequently.
226	Griffin	Says he has witnessed this. Says retailers are not audited on a regular basis because the agency does not have the time and funds.
234	Chair Nelson	Says Sen. Hannon's letter states the process is unfair to small businesses.
255	Griffin	Says he was not here when the original card lot came through and the 2,400 gallon limit was instituted, but the gas companies wanted business to keep coming to them and opposed the cardlocks. Says the Fire Marshal's office is not opposed to raising the gallon limit.
255	Chair Nelson	Asks for questions.
261	Rob Douglas	Truax-Harris Energy. Emphasizes 50-50 retail gasoline stations and commercial cardlock negotiations. Supports the 2,400 gallon limit. Explains how the 2,400 gallons amount was arrived at, and says it was upheld by the Oregon Supreme Court when challenged.
281	Mike Sherlock	Executive Director, Oregon Gasoline Dealers Association. Opposes SB 957. Says the 1991 Session negotiations arrived at the compromise now in use. Says if SB 957 passes, it will be to the detriment of small rural retail dealers.
299	Tom Gallagher	ARCO. Explains the cardlock statute. Explains the basis of the 1991 negotiations was a fight over self-serve gasoline in 1991.
344	Chair Nelson	Comments on the need to provide a fair system to small businesses.
357	Sen. Miller	Asks if that 2,400 gallons limit means a single person pumping into a single vehicle. Asks if employees of a business can pump their own gas.
380	Gallagher	Says cardlock access is for a registered owner of a company.
TAPE 107, A		
001	Sen. Beyer	Asks if cardlock use applies only to non-personal vehicles.
003	Sheng	Says Section 1, subsection 3 of SB 957, says it applies to vehicles owned by the business.
006	Griffin	States if a cardlock employee had a personal vehicle, they could get gas through the cardlock facility up to 2,400 gallons of gasoline.

020	Sen. Beyer	Asks, if a small business has access to a cardlock facility, if the employees can use that for their vehicles.
030	Gallagher	Says this bill could be shaped up through a work group. The cardlock concept could be made available to more people. There are more ideas to be approached
035	Sen. Miller	Reads part of the bill and disagrees with the interpretation of the restrictions by the Fire Marshal that limits cardlock use only to business use of the vehicle.
040	Chair Nelson	Says this bill will be worked on. Closes work session on SB 957. Adjourns at 3:05 PM.

Submitted By, Reviewed By,

Nancy Masee, Y. Sherry Sheng,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2588, -A3 Amendments, Staff, 1 p

B ñ SB 1049, -1 Amendments, Letter from T. Lindberg, 4 pp

C ñ HB 2984, Written testimony, John Brenneman, 4 pp

D ñ HB 2984, Written testimony, E. Hutchcraft, 4 pp

E ñ HB 2984, Letter, Bob Olson, 1 p

F ñ SB 953, Letter, Ken Keudell, 2 pp

G ñ SB 953, -1 and ñ2 Amendments, Staff, 2 pp