

SENATE COMMITTEE ON JUDICIARY

March 08, 1999 Hearing Room 343

3:00 PM Tapes 63 - 65

MEMBERS PRESENT: Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Nelson

Sen. Tarno

MEMBER EXCUSED: Sen. Bryant, Chair

Sen. Burdick

Sen. Qutub

STAFF PRESENT: Bill Taylor, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: HB 2215 Public Hearing, Work Session

SB 506 Public Hearing

SB 443 Public Hearing

HB 2327 Public Hearing, Work Session

HB 2305 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 63, SIDE A		
004	Sen. Courtney	Calls meeting to order 3:02 PM.
<u>HB 2215 PUBLIC HEARING</u>		

008	Dave Cook	Director, Oregon Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2215. (EXHIBIT A) Discusses the DOC's jurisdiction over inmates and the need to preserve legal custody.
043	Sen. Courtney	Closes HB 2215 Public Hearing.
<u>SB 506 PUBLIC HEARING</u>		
052	Sen. Peter Courtney	State Senator, District 17 Testifies and submits written testimony in support of SB 506. (EXHIBIT B) Gives legislative history of SB 506 which creates the crime of failing to appear for a person under 18. Discusses the Minor in Possession (MIP) violation ramifications.
093	Dale Penn	Oregon District Attorneys' Association Testifies in support of SB 506. Endorses providing warrant authority to juvenile courts. Acknowledges need for SB 506 language changes.
112	Ethan Wilson	State Police, Patrol Services Division Discusses need for prompt sanctions against MIP violators. Endorses early intervention in juvenile drinking and driving problems.
137	Debra Downey Gilmour	Governor's Advisory Committee on DUII Testifies and submits written testimony in support of SB 506. (EXHIBIT C) Discusses juveniles' failure to appear in court for MIP violations and the failure of subsequent driver license suspensions.
160	Sen. Tarno	Inquires about the costs associated with implementing SB 506.
163	Counsel Taylor	Explains when juvenile offenders will pay for violations outlined in SB 506.
169	Sen. Tarno	How many MIP violations per year will SB 506 create?
172	Sen. Courtney	Summarizes 1998 figures.
182	Dale Penn	Explains the discrepancy between arrests and MIP suspensions.
191	Sen. Courtney	Discusses current MIP law and its inconsistent enforcement. Introduces the Oregon Beer and Wine Distributors Association written testimony in support of SB 506 into the record. (EXHIBIT D)

212	Kathie Osborn	Juvenile Rights Project Testifies in opposition to SB 506. Discusses the current statutory provisions to summon juveniles to appear in court for MIP violations. Explains that courts have authority to issue summons to juveniles.
272	Barbara Hutchinson	Oregon Liquor Control Commission (OLCC) Testifies and submits written testimony with neutrality on SB 506. (EXHIBIT E) Discusses OLCC sanctions for clerks who sell liquor to juveniles. Asserts that SB 506 sanctions will hold juveniles accountable for their behavior.
280	Sen. Brown	Questions why the Legislative Counsel's Office did not inform the committee of current statutory authority to accomplish the goals SB 506.
303	Osborn	Discusses the current statutory authority of courts to issue "summons to appear" to MIP violators.
327	Dale Penn	Explains the procedural glitch that encourages juveniles not to appear in court for MIP violations.
342	Sen. Courtney	Closes SB 506 Public Hearing.
<u>SB 443 PUBLIC HEARING</u>		
344	Sen. Peter Courtney	State Senator, District 17 Testifies and submits written testimony in support of SB 443. (EXHIBIT F) Discusses the increasing incidence of driving impairment due to non-alcoholic substances.
378	Chuck Hayes	Oregon State Police, Drug Evaluation and Classification Program Testifies and submits written testimony in support of SB 443. (EXHIBIT G) Discussed the need for public education regarding drug induced driving impairment.
TAPE 64, SIDE A		
005	Hayes	Cites examples of people whose driving ability was impaired by non-alcoholic substances such as herbs and over-the-counter medicines. Suggests narrowing the definition of "drug."
49	Kevin Campbell	Oregon Association of Chiefs of Police Discusses police officer teams that are trained in drug issues. Suggests restricting the definition of "drug."

067	Dale Penn	Oregon District Attorneys' Association Testifies in support of SB 443. Suggests limiting the scope of SB 443.
079	Sen. Tarno	What is the current response to a person who intentionally uses intoxicating substances and drives?
088	Penn	Explains that a DUI cannot be issued when non-alcoholic substances are involved. Suggests that a citation for recklessly endangering may be applicable in some situations.
102	Sen. Brown	How can one know the intoxicating limits of herbal substances?
113	Hayes	Impairment usually follows excessive use of such substances.
126	Sen. Nelson	Have you considered the impact of SB 443 on the elderly population?
135	Hayes	Proposes to narrow the scope of SB 443 to substances intentionally ingested for intoxication. Discusses the effect of alcohol in combination with non-alcoholic substances.
183	Debra Downey Gilmour	Governor's Advisory Committee on DUI Testifies and submits written testimony in support of SB 443. (EXHIBIT H) Discusses fatal crash statistics.
213	Julia Hinkley	Oregon State Police, Forensic Laboratory Testifies and submits written testimony in support of SB 443. (EXHIBIT I) Discusses impaired driving performance due to alcohol and drugs use.
258	Jim Gardner	Pharmaceutical Research and Manufacturers of America Testifies and submits written testimony in opposition of SB 443. (EXHIBIT J) Discusses ongoing medical research to minimize drug toxicity and maximize drug effectiveness. Explains that drug efficacy and potency do not lend themselves to exact measurements.
354	Ingrid Swenson	Oregon Criminal Defense Lawyers' Association Testifies in opposition to SB 443. Explains that SB 443 fails to distinguish between substance abusers and people who unwittingly experience drug impairment.
428	Scott Gallant	Oregon Medical Association Testifies in opposition to SB 443. Discusses the fallacy of issuing a DUI citation for unintended prescription medication impairment.

TAPE 63, SIDE B

004	Gallant	Continues testimony in opposition to SB 443. Explains that the scope of SB 443 is too broad. Asserts that SB 443 will encourage liability litigation against medical professionals.
039	Sen. Tarno	Discusses recreational use of prescription drugs and alcohol. How can we address this issue?
054	Gardner	Acknowledges that SB 443 should be narrowed in scope to address intentional substance abuse.
056	Gallant	Discusses the complexity of driving impairment and drug use. Encourages review of the implications of SB 443.
082	Gardner	Discusses pharmacists' attempts to narrow prescription drug side effects.
097	Sen. Brown	At what point should the person consuming the drug be accountable for its side effects?
106	Gallant	Explains the necessity of some people to drive after taking legal medications.
128	Gardner	Encourages drivers' education and individual responsibility.
140	Sen. Brown	Does SB 443 cover substances such as coffee?
141	Gardner	Yes, "substance" is all-inclusive.
153	Gallant	Discusses the impact of SB 443 on the elderly in rural areas.
169	Sen. Brown	Encourages expansion of public transportation systems to senior/disabled population.
177	Tom Holt	Oregon State Pharmacists Association Testifies and submits written testimony in opposition to SB 443. (EXHIBIT K) Asserts that SB 443 sanctions prescription drug interaction errors and invites liability litigation. Asserts that SB 443 should distinguish between medical use and recreational use of drugs.
227	Counsel Taylor	If prescription drugs were omitted from the scope of SB 443, would you support the bill?

230	Holt	Yes.
245	Sen. Courtney	Closes SB 443 Public Hearing.
<u>SB 506 PUBLIC HEARING</u>		
251	Kendall Swanson	Sunset High School Junior Testifies in support of SB 506. Discusses juveniles' access to alcohol and the ineffectiveness of Minor In Possession (MIP) citations as a deterrent to drinking and driving behavior.
273	Ryan Satterwhite	Lincoln High School Senior Testifies in support of SB 506. Discusses alcohol use among teens.
297	Sen. Nelson	Discusses legislative history of MIP bills. Explains proposed fines for MIP violations.
317	Sen. Courtney	Encourages input from youth on SB 506.
321	Sen. Nelson	Do you have any solutions to juvenile drinking/driving problem?
327	Satterwhite	Explains that drinking/drug use is ingrained in youth culture. Suggests preventive measures directed toward young adolescents.
338	Swanson	Encourages alcohol/drug treatment for juveniles. Asserts that fines for MIP violations are ineffective in changing behavior.
352	Sen. Tarno	How do teens secure alcohol?
352	Satterwhite	Very easily. Some parents condone its use.
369	Swanson	They get alcohol from convenience stores. They also use fake identification or an older sibling's identification.
389	Sen. Courtney	Closes SB 506 Public Hearing.
<u>HB 2327 PUBLIC HEARING</u>		
398	Rep. Lane Shetterly	State Representative, House District 34 Testifies in support of HB 2327 which enhances sentences for "sexually violent

		dangerous offenders." Discusses legislative history of bill.
TAPE 64, SIDE B		
004	Rep. Shetterly	Discusses a workgroup visit to McNeil island institution for prisoners. Asserts that creating a lifetime post prison supervision program for dangerous sexual predators is a viable policy.
085	Diane Rea	Board of Parole and Post Prison Supervision Testifies and submits written testimony in support of HB 2327. (EXHIBIT L) Asserts that sexual predators can live responsibly in the community with post prison supervision. Discusses HB 2327 sanctions.
119	Scott Taylor	Oregon Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2327. (EXHIBIT M) Discusses the impact of HB 2327 on the criminal justice system: its costs, the people affected per year and sanctions.
151	Sen. Brown	This bill is prospective in nature. Will it address sexual predators already within the system?
156	Rep. Shetterly	Yes, we have a companion bill.
163	Rea	HB 2328 will provide funds for intensive supervision. That bill is in the Ways and Means Committee.
171	Sen. Tarno	What is the difference between a predatory sex offender and a violent sex offender?
173	Rea	Defines predatory sex offender.
182	Sen. Tarno	Can one be a predatory and violent sex offender? If so, why is there no cross-reference in HB 2327 to the ORS definition?
186	Scott Taylor	Elaborates on the sex offender categories.
195	Sen. Tarno	Should the penalty be enhanced for a sex offender in both categories?
199	Scott Taylor	Proposes to reach a consensus between relating bills in this Legislative session.
204	Sen. Courtney	Closes HB 2327 Public Hearing.

HB 2327 WORK SESSION

206	Sen. Nelson	Questions grammatical structure of language on page 1 line 24.
215	Rep. Shetterly	Clarifies language as disjunctive in structure.
225	Sen. Courtney	Rep. Shetterly, do you support the ñ1 amendments to HB 2327? (EXHBIT N)
226	Rep. Shetterly	Yes.
230	Sen. Nelson	MOTION: Moves to ADOPT HB 2327-1 amendments dated 03/05/99.
		VOTE: 4-0 EXCUSED: 3 - Chair Bryant, Sen. Burdick, Sen. Qutub
	Sen. Courtney	Hearing no objection, declares the motion CARRIED.
237	Sen. Nelson	MOTION: Moves HB 2327 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Chair Bryant, Sen. Burdick, Sen. Qutub
	Sen. Courtney	The motion CARRIES. SEN. COURTNEY will lead discussion on the floor.
260	Sen. Courtney	Closes HB 2327 Work Session.
<u>HB 2215 WORK SESSION</u>		
262	Counsel Taylor	Introduces HB 2215 which limits the powers of an offenderís guardian.

281	Sen. Courtney	MOTION: Moves HB 2215 to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Chair Bryant, Sen. Burdick, Sen. Qutub
	Sen. Courtney	The motion CARRIES.
291	Sen. Courtney	Closes HB 2215 Work Session.
<u>PUBLIC HEARING & POSSIBLE WORK SESSION HB 2305</u>		
293	Counsel Taylor	Introduces HB 2305 which expands base upon which the state can appeal trial court actions.
311	Dale Penn	Oregon District Attorneys Association Testifies in support of HB 2305. Discusses the types of situations which HB 2305 will cover.
332	Sen. Brown	Are there any amendments to HB 2305?
337	Penn	Yes, there were proposed language changes. Suggests moving the bill without amendments.
360	Sen. Nelson	Asks for clarification on the phrase: "The order dismisses or sets aside the accusatory instrument."
365	Penn	Explains the procedure for dismissing a case after a guilty verdict.
385	Sen. Nelson	Does HB 2305 present the potential for abuse?
387	Penn	Not necessarily. It is a useful tool for the public defenderis office and the attorney generalis office in handling appeals.
412	Sen. Brown	Shouldn't HB 2305 refer to ORS 136.120?
412	Penn	Discusses the general right of appeal after a case is dismissed with prejudice.

TAPE 65, SIDE A

002	Penn	Continues discussion of how HB 2305 will change current re-filing and dismissal procedures.
036	Sen. Courtney	Closes HB 2305. Adjourns meeting at 4:55 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Manager

EXHIBIT SUMMARY

- A. Testimony in support of HB 2215, Dave Cook, 2pp**
- B. Testimony in support of SB 506, Rep. Peter Courtney, 3pp**
- C. Testimony in support of SB 506, Debra Downey Gilmour, 3pp**
- D. Testimony in support of SB 506 and SB 443, Paul R. Romain, 1p**
- E. Testimony in support of SB 506, Barbara Hutchinson, 1p**
- F. Testimony in support of SB 443, Rep. Peter Courtney, 2pp**
- G. Testimony in support of SB 443, Chuck Hayes, 4pp**
- H. Testimony in support of SB 443, Debra Downey Gilmour, 2pp**
 - I. Testimony in support of SB 443, Julia Hinkley, 2pp**
 - J. Testimony in opposition to SB 443, Jim Gardner, 1p**
 - K. Testimony in opposition to SB 443, Tom Holt, 2pp**
 - L. Testimony in support of HB 2327, Diane M. Rea, 2pp**
 - M. Testimony in support of HB 2327, Scott Taylor, 2pp**
 - N. Proposed Amendments to HB 2327, Bill Taylor, 1p**