

SENATE COMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT

February 10, 1999 Hearing Room B

3:00 p.m. Tapes 16 - 17

MEMBERS PRESENT: Sen. John Lim, Chair

Sen. Avel Gordly, Vice-Chair

Sen. Verne Duncan

Sen. Tony Corcoran

Sen. Bill Fisher

MEMBER EXCUSED:

STAFF PRESENT: Carol Rives, Administrator

Gary Roulier, Administrative Support

MEASURE/ISSUES HEARD: SB 116 Public Hearing

SB 119 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 16, A		
002	Chair Lim	Opens meeting at 3:10 p.m. and opens public hearing on SB 116.
<u>SB 116 PUBLIC HEARING</u>		
014	Carol Rives	Administrator. Summarizes SB 116, which requires the Oregon Liquor Control Commission (OLCC) to establish and maintain a certification program for package store employees.

038	Rives	Presents a letter from the Governor's Advisory Committee on Driving Under the Influence of Intoxicants (EXHIBIT A), which states that they cannot support SB 116 in its present form.
064	Harold King	Owner of package store in Newberg. Presents (EXHIBIT B), an amendment requiring any person younger than 35 to show identification to purchase alcoholic beverages at retail package stores. Supports the provisions of SB 116 which would establish a training program and database of certified clerks.
105	Chair Lim	Asks how the store employee would know the difference between a 35 or a 36-year-old.
117	King	Responds that the proposed change would be an improvement over the present requirement to check identification on any person younger than 27. Adds that both the store owner and the buyer need to share responsibility. Summarizes that these proposed changes will eliminate most of the problems.
133	Sen. Duncan	Asks how King's case with the OLCC is proceeding.

135	King	Answers that he has heard nothing from the OLCC.
139	Steve McCoid	Oregon Grocery Association. Testifies in opposition to SB 116. Responds to the statistics presented on page 1 of (EXHIBIT A), and notes that the reason that 75 percent of the violations in 1998 occurred in package stores is because the industry has been the target of the decoy programs. Remarks that the statistics do not indicate how many store owners pass the decoy program.
173	Sen. Corcoran	Asks about the locations of the stings and the types of stores involved.
177	McCoid	Answers that he is not aware of any available statistics.
190	Sen. Corcoran	Agrees that the statistics in the exhibit may be misleading, because there is no OLCC data on where the decoy operations were conducted.
201	McCoid	States that the Oregon Grocery Association does not believe the programs outlined in SB 116 would be effective. Concludes that the proposed amendment is subjective and may be unenforceable.
261	Chair Lim	Asks whether the Oregon Grocery Association supports mandatory training programs.
265	McCoid	Responds that the association does not.

268	Chair Lim	Asks about the certification for bar and restaurant servers.
273	McCoid	States that there are significant differences between package store and alcohol server training requirements.
286	Chair Lim	Asks why the association is opposed to training for package store employees.
294	McCoid	Answers that a voluntary program will eventually turn into a mandatory program and create bureaucratic problems.
301	Bill Linden	Southland Corporation. Testifies in opposition to SB 116 on the grounds that it would have little impact. Adds that the decoy operations have raised the visibility on the issue of sales of alcohol to minors and the package stores have responded to the need for training.
331	Chair Lim	Asks if it would be reasonable if training were mandated for a first offense of selling alcohol to a minor.
350	McCoid	Responds that is not an issue they have considered.
354	Linden	Remarks that mandatory training is usually part of the settlement agreement with OLCC in cases of multiple violation cases. Adds that the OLCC training would need to be of higher quality than the licensee's training programs, to be effective.
371	McCoid	Agrees that a valid internal training program makes more sense than sending the employee to OLCC. Outlines the stringent requirements usually outlined in OLCC settlements of multiple violation cases.
397	Chair Lim	Asks about the lack of training resources for the small package stores.
408	McCoid	Responds that the OLCC has training programs available and that the Oregon Grocery Association also offers training programs, for a fee.

TAPE 17, A

010	Chair Lim	Asks if the Southland training programs have been approved by the OLCC.
012	Linden	Answers that he is not sure if the programs have been officially approved, but that the program elements follow OLCC guidelines.
021	Barb Hutchison	Public Affairs Manager, OLCC. Responds that the OLCC has found the training programs offered by the larger corporations to be of high quality. Notes that the

OLCC offers training to a licensee that has been sanctioned, but only 20 percent take advantage of the training. Adds that the OLCC is mitigating sanction penalties for violators who attend mandated training.

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| 046 | Chair Lim | Asks for OLCC suggestions on SB 116. |
| 053 | Hutchison | Answers that the OLCC position is that they want to do anything that can help keep alcohol from minors. Adds that the OLCC provides informative brochures for all employees of package stores to read and sign, but that only 20 percent of the licensees comply with this simple requirement. |
| 082 | Chair Lim | Remarks that small package store owners have to go through training, but not the employees. Discusses with Hutchison the different sanctions imposed if the violation is committed by the employer rather than the employee and would like to know the percentages of employer versus employee violations. |
| 102 | Hutchison | Remarks that the OLCC does not support SB 116 because it is voluntary and will not solve the problem of underage drinking. Adds that the OLCC has submitted a bill to the House which would mandate training. |
| 119 | Chair Lim | Asks if the decoy operations have been more focused on the smaller package stores. |
| 126 | Hutchison | Responds that exact data is not available. Adds that the decoy operations conducted by OLCC are the result of referrals from the local law enforcement agencies. |
| 150 | Chair Lim | Closes the public hearing on SB 116 and opens the public hearing on SB 119. |

SB 119 PUBLIC HEARING

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| 153 | Rives | Explains the provisions of SB 119 which requires the OLCC to develop uniform standards and procedures for investigations of sales of alcohol to minors. |
| 187 | Linden | Testifies in opposition to SB 119 but supports uniform standards for decoy operations. Notes that local law enforcement agencies often set their own standards for decoy operations. States that the problem with SB 119 is that the decoy operations run by the local law enforcement agencies would still result in OLCC sanctions against the licensee. |
| 234 | Linden | Continues that the figures presented in (EXHIBIT A) could be questioned. Adds that we need to know more about exactly where minors are obtaining alcohol. |
| 262 | Chair Lim | Asks for suggestions from the witness for improving SB 119. |

267	Linden	Supports a standardized process for conducting stings. Adds that any sting operations not conforming to the standards should not count against the licensee, in terms of sanctions by the OLCC.
291	Chair Lim	Asks about specific provisions of SB 119 which state that the failure to follow the uniform standards is not grounds for challenging any citation.
296	Linden	Restates that this provision allows non-conforming sting operations to count against the licensee with regards to sanctions with the OLCC.
305	Chair Lim	Asks if Linden's opinion would be different if the provision was deleted.
306	Linden	Answers that non-conforming sting operations should not count with regard to sanctions from the OLCC. Adds that they can still be fined by the local law enforcement agency and the offending clerk is subject to penalties.
325	Chair Lim	States that his intention is to penalize the local law enforcement agency if the standards are not followed.
329	Linden	Remarks that legislation, regarding the conduct of sting operations, is needed.
343	Chair Lim	Asks if the sting operations are necessary.
345	Linden	Responds that the objectives should not be how many licensees can be sanctioned but how we can reduce the availability of alcohol to minors.
366	Sen. Corcoran	Asks about data in the Oregonian newspaper about the increase of alcohol consumption among teenagers in the state.
374	Linden	Answers that perhaps education would be more effective than the present enforcement methods.
388	Chair Lim	Asks whether there should be reverse sting operations to catch minors attempting to purchase alcohol.
404	Linden	Responds that those types of operations could be one method to reduce use of alcohol among minors, but that penalties against minors are not enforced.
422	Rives	Remarks that prior testimony indicated that most counties do not pursue reports of minors attempting to purchase alcohol.

TAPE 16, B

022	King	States that the reverse sting is a good idea, but it is difficult to get the local police to respond. Supports the concept of reverse sting operations.
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039	Sen. Duncan	Asks what King would do if he finds an altered identification. Discusses whether King has a liability problem if he questions the authenticity of the identification. States that if he had a question about the identification, he would not sell alcohol, and would not confiscate the license. Discusses the scanners available to the package store owners and how the scanners work.
081	Sen. Duncan	Asks about the information recorded by the scanner and whether that information is available to local law enforcement.
092	King	Answers that the information is recorded, but local law enforcement takes no action.
094	Chair Lim	Asks about the confiscation of licenses.
102	Hutchison	Answers that identification is required to purchase liquor. Notes that the OLCC does not sanction the licensee if the clerks accept false identification.
124	Chair Lim	Asks about the authority to confiscate the identification.
126	Hutchison	Answers that she is not aware of the particular cite, but is aware that package store and bar owners are encouraged to confiscate the false identification. Adds that laws exist which state that the driver's license shall be taken away for one year if a minor is convicted of attempting to buy alcohol, but counties are enforcing that law differently.
153	Chair Lim	Asks about follow-up with these programs and whether the minor is convicted.
157	Hutchison	Answers that they must be convicted prior to losing their driver's license and agrees that follow-up is usually not done.
168	Chair Lim	Asks for the OLCC's opinion on SB 119.
170	Hutchison	Responds that the OLCC has not taken a position and feels that their standards are adequate. States that more local law enforcement agencies are following the OLCC standards for decoy operations.
186	Chair Lim	Asks about the differences between OLCC and law enforcement decoy operations.
191	Hutchison	Relates anecdotal information regarding some local decoy operations.
201	Chair Lim	Asks if it is legal to use minors in decoy operations.

203	Hutchison	Answers that is correct and an opinion from the attorney general's office allows the use of minors in decoy operations.
211	Chair Lim	Asks about using adults who look younger to check procedures of the package stores.
221	Hutchison	Responds that the OLCC has used "adult stings" in the past. Adds that in these cases, no sanctions are imposed, but the agency provides training for the employee and the licensee.
236	Sen. Fisher	States that the licensee should be promptly notified when an employee has been cited in a decoy operation.
258	Chair Lim	Asks about saturation decoy operations by the OLCC and local law enforcement agencies.
273	Hutchison	Responds that decoy operations run by the OLCC are conducted because of past violations. States that the OLCC will not run decoy operations in an area being covered by the local authorities if they receive prior notice.
283	Chair Lim	Suggests that other sanctions are possible such as taking away the driver's license after the minor has attempted to purchase alcohol three times. Adds that these attempts must be reported to the local law enforcement agencies who will be mandated to follow-up.
295	Hutchison	Answers that a driver's license is highly valued by minors, and follow-up is needed to enforce the laws that already exist.
298	Sen. Fisher	Asks about the legality of confiscating the driver's license.
305	Hutchison	Responds that she does not have the cited authority, but will provide it to the committee.
319	Chair Lim	Remarks that they need to have the legal grounds to confiscate the license.
327	Sen. Corcoran	Asks about newspaper articles showing increased use of alcohol among minors which seem to contradict the effectiveness of the decoy operations. Adds that he does not believe that data is unavailable to demonstrate where the decoy operations are being conducted and against what type of businesses.
342	Hutchison	Responds that the statistics are available for the decoy operations and she will provide the data to the committee. Explains that the OLCC is not involved in educational programs in schools and they believe that education at the store level coupled with enforcement is the most effective method for curbing teenage

drinking.

371 Chair Lim States that each party involved in a sale to a minor should bear responsibility. Asks the committee for any ideas on amendments.

405 Sen. Fisher Summarizes (**EXHIBIT A**) and the figures regarding the drop in the number of alcohol-related motor vehicle crash fatalities. States that it would be difficult to attribute this reduction solely to the server education program.

TAPE 17, B

024 Hutchison Responds that the Department of Transportation would be a good resource for the statistics regarding the drop in crash fatalities. Adds that more stringent laws were introduced in the same period.

034 Sen. Fisher Remarks that the allowable blood alcohol level may have been reduced at the same time and that he needs more information.

043 Chair Lim Asks about double jeopardy for a licensee who is fined by the local law enforcement agency and then the OLCC.

051 Hutchison Responds that if the OLCC cites a licensee for a sale to a minor, the OLCC sanctions the licensee administratively. Explains that the OLCC has the authority to pursue the licensee with either civil or criminal action, but does not. Adds that if the local law enforcement goes in first and cites the licensee, the OLCC, as the agency charged with the responsibility for liquor law enforcement, will cite the licensee administratively.

069 Sen. Fisher Asks if the OLCC cites administratively in every instance of a local law enforcement decoy operation.

072 Hutchison Answers that they do, but circumstances could dictate a different action.

079 Sen. Fisher Asks if the OLCC has coordinated with local law enforcement to remove civil sanctions in those cases where the OLCC has decided not to take administrative action.

080 Hutchison Answers that she is not aware of any instances but will find out.

086 Chair Lim Asks the administrator to research how the fines are administered by the local police authorities, the amount of the fines, and the disposition of the monies.

096 Sen. Fisher Adds that he is interested in the disposition of fines and the fine schedule.

Submitted By, Reviewed By,

Gary Roulier, Carol Rives,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 116, letter, staff, 1 page

B ñ SB 116, letter, Harold King, 1 page