

SENATE COMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT

March 17, 1999 Hearing Room B

3:00 p.m. Tapes 36 - 38

MEMBERS PRESENT: Sen. John Lim, Chair

Sen. Avel Gordly, Vice-Chair

Sen. Verne Duncan

MEMBER EXCUSED: Sen. Tony Corcoran

Sen. Bill Fisher

STAFF PRESENT: Carol Rives, Administrator

Gary Roulier, Administrative Support

MEASURE/ISSUES HEARD: Introduction of Committee Bill

HB 2246 Work Session

SB 119 Public Hearing

SB 115 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 36, A		

SEN. GORDLY will lead discussion on the floor.

070 Chair Lim Closes work session and opens public hearing on SB 119.

SB 119 PUBLIC HEARING

073 Rives Presents (**EXHIBIT B**) and explains that the amendments to SB 115 have incorporated the provisions of SB 119. Outlines the changes proposed in the amendments dealing with the minor decoy program conducted by the Oregon Liquor Control Commission (OLCC).

112 Chair Lim Closes public hearing on SB 119 and opens public hearing on SB 115.

SB 115 PUBLIC HEARING

131 Chair Lim Discusses with committee members and the administrator the procedure for examining the amendments and the order of public testimony. Remarks that the late arrival of the amendment will necessitate discussion of each section of the amendment.

178 Rives Summarizes Sections 2 and 3 of the amendment requiring the development of uniform standards for minor decoy operations (page 1 of the exhibit).

227 Rives Discusses further provisions of the minor decoy operation standards contained in Section 2(5) (page 2 of the exhibit).

244 Vice-chair Gordly Asks for the source of the language in Section 2 of the amendment.

252 Rives Responds that the language is from Legislative Counsel. Continues with a description of Section 3 and 4 of the amendment dealing with sanctions from the OLCC (page 2 of the exhibit).

309 Rives Outlines Section 4 of the amendment which requires the development of sanction schedules by the OLCC (page 3 and 4 of the exhibit).

333 Sen. Duncan Asks where the specific language of the bill originated.

335 Chair Lim Responds that much of the language originated with the Chair's request.

337 Rives Summarizes Section 4 of the amendment (page 4 of the exhibit). Discusses with Sen. Duncan the provisions of Section 4(2) which provides for a warning upon first offense of unlawful sale to a minor by an employee.

383 Rives Explains Section 4(4) outlining sanctions for a third offense of unlawful sale to a minor (page 4 of the exhibit)

TAPE 27, A

002	Rives	Summarizes subsections under Section 4 dealing with sanctions. Explains subsection 4(8) and Section 5 which provide that an OLCC licensee will not be sanctioned by the OLCC if the licensee has also been convicted by local law enforcement of selling alcohol to a minor.
054	Rives	Outlines Section 6 which increases the punishment for a minor attempting to purchase alcohol from a \$250 fine to a Class C misdemeanor.
088	Jennifer Young	Citizen, Parkrose, Oregon. Testifies in opposition to SB 115 and states that commerce should never take precedence over the health and safety of children. Notes that retailers have a great responsibility to not sell alcohol to minors and the licensee should be held responsible for unlawful sales by employees.
137	Chair Lim	Asks if the employee should have the same responsibility as the employer.
139	Young	Responds that the employee and employer should have equal responsibility.
148	Mary Stuart	Regional Drug Initiative. Testifies in opposition to SB 115. Notes that the current laws are sufficient. Adds that employees need to be held accountable, but employers must be cited for unlawful actions of the employee.
179	Jeff Anderson	Union Representative, United Food and Commercial Workers. Presents (EXHIBIT C) and testifies in opposition to SB 115. Remarks that the food industry has taken the position that the sale of alcohol is a strict liability. Notes that the union supports mandated training by employers.
230	Chair Lim	Asks if the action of the employee should be borne 100% by the employer.
236	Anderson	Responds that progressive discipline is more appropriate than the outright dismissal of the employee.
245	Chair Lim	Discusses the problems experienced by small package store owners.
257	Anderson	Reiterates the position of mandated training.
262	Chair Lim	Notes that the current system holds the employee harmless and is not effective.
272	Anderson	States that sanctions by the OLCC on the first offense usually result in termination of the employee.
284	Nigel Wrangham	Oregon Coalition to Reduce Underage Drinking. Testifies in opposition to SB

115. States that the proposed bill would weaken OLCC power to reduce use of alcohol by minors, and the bill is vague and anti-enforcement. Adds that OLCC is accountable and suggests keeping the current penalties.

313 Wrangham Notes that his organization is not opposed to increasing legal penalties on youth who attempt to purchase alcohol.

347 Wrangham States that youth do not create the problem and that OLCC should be allowed to enforce the law.

366 Chair Lim Notes that the responsibility should be borne by all parties.

390 Wrangham Responds that the problem will not be solved by reducing OLCC ability to impose sanctions.

TAPE 36, B

009 Chair Lim States his strong support for decreasing alcohol use among youth and reiterates the need for specific recommendations for improving the bill.

021 Debra Downy-Gilmore Governor's Advisory Committee, Driving Under the Influence of Intoxicants. Presents (**EXHIBIT D**) and testifies in opposition to SB 115. Remarks that alcohol continues to be the drug of choice among Oregon youth and summarizes use of alcohol within specified age groups (page 1 of the exhibit).

053 Chair Lim Asks why we have so many problems with underage drinking if the present system works so well.

057 Downy-Gilmore Responds that alcohol is too readily available to minors and the objective is to reduce availability.

066 Chair Lim Draws a parallel with drug enforcement where the law only penalizes the dealers and not the buyers.

073 Downey-Gilmore Responds that the Governor's Advisory Committee cannot support SB 115 or the proposed amendment.

083 Vice-Chair Gordly Remarks that the information regarding alcohol use is alarming (page 1 of the exhibit). Asks if the studies show where the minors get their alcohol.

090 Downey-Gilmer Responds that the survey does indicate the source and will provide the entire report to the committee.

104	Bill Calder	Officer, City of Portland Police Bureau. Presents (EXHIBIT E) and testifies in opposition to SB 115. Emphasizes the value of training and the reduction in failure rates since the beginning of the minor decoy programs.
160	Calder	States that SB 115 will not affect the responsible owner but will allow the absentee owner to continue to provide a dangerous drug to minors. Comments that minors attempting to purchase alcohol are prosecuted and that the Portland Police Bureau follows OLCC standards.
199	Calder	Concludes that the best solution to the problem is training for the store clerks.
205	Vice-Chair Gordly	Asks about the retailers who are not being responsible in preventing sales to minors.
219	Calder	Responds that some retailers, including some large chains, feel they do not have a problem. Notes that most small retailers respond quickly to violations but the real answer to reducing sales of alcohol to minors is training.
250	Calder	Notes that in Portland, identification is checked by the clerk 50% of the time that sales are made to minor decoys.
269	Chair Lim	Asks whether the suggested training would be provided by the store or OLCC.
289	Calder	Answers that the large corporations could provide their own training and the OLCC should provide training for the smaller retailers.
303	Chair Lim	Asks what happens when a minor is arrested for attempting to buy alcohol.
310	Calder	Responds that it depends on the judge and that sanctions for the first offense are often inadequate in juvenile court.
315	Chair Lim	Asks about the procedure for monitoring offenses by minors.
327	Calder	Responds that increasing the penalty to a misdemeanor would allow courts to issue warrants.
352	Raul Ramirez	Sheriff, Marion County. Testifies in opposition to SB 115 and states that it would have a negative impact on OLCC ability to enforce the statutes. Outlines that the existing laws are effective in encouraging responsible behavior by store owners.
401	Ramirez	Notes that Marion County gives prior notice to stores that minor decoy operations will be conducted in their area. Discusses the decreasing failure rates as a result of minor decoy operations.

TAPE 37, B

010	Ramirez	Concludes that OLCC's cooperation with law enforcement is working well.
013	Chair Lim	Asks how we can close the loopholes and inquires about penalties for minors.
014	Ramirez	Responds that mandatory training is the key. Adds that the ultimate disposition rests with the courts when a minor is cited or arrested for possession of alcohol.
028	Sen. Duncan	Remarks that the severity of the sanctions removes the need to mandate training.
044	Kevin Campbell	Oregon Association of the Chiefs of Police. Testifies in opposition to SB 115 and notes that HB 2263 would allow municipal courts to hear cases involving minors with alcohol. Adds that SB 506 would allow the courts to issue a warrant for a minor who fails to appear. Remarks that the minor decoy operations, particularly with prior notice, have been effective in reducing unlawful sales of alcohol to minors.
088	Dale Penn	Marion County District Attorney, District Attorney's Association. Testifies in opposition to SB 115. Summarizes efforts within the legislature to close some of the loopholes in the sanctions for unlawful sales of alcohol to minors. Notes that the OLCC needs additional resources, not less.
133	Penn	Remarks that there will be a significant fiscal impact associated with increasing penalties for minors to a Class C misdemeanor. Suggests that alternative sanctions such as increased fines or loss of driving privileges may be more effective. Notes that it is difficult to convict clerks for unlawful sales to minors because the statute requires that the unlawful sale be made "knowingly."
174	Penn	Remarks that surveillance of retailers suspected of making unlawful sales of alcohol to minors is extremely expensive and may be inappropriate due to probable cause concerns. Stresses that decoy operations are a much better vehicle.
193	Carol Stone	Regional Drug Initiative. Presents (EXHIBIT F) and testifies in opposition to SB 115. Outlines the membership of the Regional Drug Initiative and discusses the Guiding Principles for Alcohol Availability (page 2 of the exhibit).
250	Stone	Remarks that the solution is a comprehensive approach of prevention and enforcement. Points out that the driver's license of any minor in Oregon clearly states they are a minor until a date specified on the license, so there is no need for the clerk to perform any mathematical calculations.
274	Chair Lim	Asks about fraudulent identification.

279	Stone	Responds that minors involved in the decoy program have valid identification.
288	Pamela Erickson	Administrator, Oregon Liquor Control Commission. Presents (EXHIBIT G) and testifies on behalf of the OLCC in opposition to SB 115. Notes that the state has a responsibility to prevent addiction to alcohol among young people.
326	Erickson	Remarks that the fear of cancellation among licensees is exaggerated. Notes that the OLCC and local police departments have conducted over 1,800 decoy operations and only cancelled two retailers. Adds that California only cancelled 24 licensees in a four-year period. States that minors get alcohol from stores and SB 115 would worsen the problem.
382	Erickson	Notes concern about SB 115 provisions weakening the OLCC ability to cancel licenses. Adds that training is a key and needs to be compulsory.

TAPE 38, A

010	Erickson	Concludes that the OLCC has taken a neutral position on SB 119. Emphasizes that the OLCC has standards in place but would not object to the legislation.
020	Vice-Chair Gordly	Presents (EXHIBIT H), a letter from Michael Henry, Attorney at Law, and asks for OLCC comments.
039	Phil Lang	Chair, Oregon Liquor Control Commission. Responds that the OLCC is concerned about the inability to sanction a clerk and that the only punishment available is a criminal citation. Adds that a proposed house bill will address the problem.
063	Lang	Remarks that there are devices available that will electronically check the validity of identification. Notes that the system will never be 100% foolproof and that the objective is fairness.
102	Vice-Chair Gordly	Comments that the problem with underage drinking is of epidemic proportions.
112	Lang	Notes that minors often get alcohol through theft or from parents.
123	Chair Lim	Reiterates that alcohol usage by youth is not decreasing, and it is critical to both eliminate the source of alcohol for minors and increase education efforts.
142	Chair Lim	Adjourns the meeting at 5:18 p.m.

Gary Roulier, Carol Rives,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2246, amendments, staff, 1 pp

B ñ SB 115, amendments, staff, 6 pp

C - SB 115, letter, Jeff Anderson, 1 pp

D - SB 115, letter, Debra Downey-Gilmore

E - SB 115, written testimony, Bill Calder, 2 pp

F - SB 115, pamphlet, Carol Stone, 6 pp

G - SB 115, written testimony, Pam Erickson, 2 pp

H - SB 115, letter submitted prior to meeting, staff, 4 pp