

SENATE COMMITTEE ON TRANSPORTATION

March 15, 1999 Hearing Room C

3:05 p.m. Tapes 40 - 41

MEMBERS PRESENT: Sen. Marylin Shannon, Chair

Sen. Mae Yih, Vice-Chair

Sen. Susan Castillo

Sen. Joan Dukes

Sen. Gary George

Sen. Lenn Hannon

MEMBERS EXCUSED: Sen. Ted Ferrioli

STAFF PRESENT: Don Scott, Administrator

Valerie Luhr, Administrative Support

MEASURE/ISSUES HEARD: SB 483 Public Hearing and Work Session

HB 2613 Public Hearing and Work Session

SB 773 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 40, A		
070	Chair Shannon	Opens the meeting at 3:15 p.m. Opens a public hearing on SB 483.
<u>SB 483 PUBLIC HEARING</u>		
075	Don Scott	Committee Administrator. Reviews provisions of SB 483.

085	Chair Shannon	Asks why the committee did not pass out SB 483 on March 1.
087	Sen. Dukes	Comments it might have been because of the fiscal impact.
098	Sen. Castillo	States a representative of the Department of Energy answered her questions.
099	Chair Shannon	Closes public hearing on SB 483. Opens work session on SB 483.
<u>SB 483 WORK SESSION</u>		
101	Sen. Yih	MOTION: Moves SB 483 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Ferrioli
	Chair Shannon	The motion CARRIES.
116	Chair Shannon	Closes work session on SB 483. Opens public hearing on HB 2613.
<u>HB 2613 PUBLIC HEARING</u>		
136	Randy Westbrook	Motorcycle Unit, Oregon State Police (OSP). Reviews his concerns about HB 2613: the ability to make quick and precise movements, the braking ability is in the front brake, and precise movement of a motorcycle. Information from Alan Hageman, OSP, becomes part of the record [EXHIBIT F] .
164	Sen. Hannon	Asks Westbrook if he is a trained motorcycle officer for the State Police.
166	Westbrook	States he is a trained motorcycle officer.
167	Sen. Hannon	Asks about the angle and position of his handlebars.
168	Westbrook	States the handlebars are normally below the shoulders. Describes what kinds of motorcycles he has ridden.
173	Sen. Hannon	States 13 states, including Oregon, require handgrips below shoulder height.
181	Westbrook	States Sen. Hannon is correct.
183	Sen. Hannon	Asks Westbrook if he has any concept that says the State Police have better vision leaning forward on a motorcycle than sitting back.
191	Westbrook	States Sen. Hannon is thinking of a café racer motorcycle, and the state police's motorcycles are not that extreme. States the Kawasaki is a sit-back style motorcycle and the BMW is a slight forward lean style. States his vision is not restricted when riding the BMW and it is comfortable.

198	Sen. Hannon	Asks what happens with the braking distance. Asks about the degree of difficulty for braking depending on how a person is sitting.
204	Westbrook	Comments on the ability to grip the brakes on a motorcycle.
213	Sen. Hannon	Asks if he could be ticketed if handlebars were above his shoulder blades.
215	Westbrook	States he would not issue a citation.
219	Sen. Hannon	Clarifies he would not get a ticket if he was holding the handlebars level or just below level with his shoulder blades.
222	Westbrook	States he does not know how a court would deal with that situation, but he personally does not consider it an offense.
226	Sen. Dukes	States she is wondering what ORS is being repealed by HB 2613. Asks if the National Highway Traffic Safety Administration (NHTSA) has a position on handlebar height.
232	Alan Hageman	OSP. States NHTSA has not taken an official position because not enough research has been done. Submits written information for the record [EXHIBIT F] .
240	Sen. Dukes	Clarifies nhtsa has not done safety testing.
244	Sen. George	Notes the vote in the House was 59 ayes. Comments that 37 states do not agree with Oregon when it comes to handlebars. States he has ridden motorcycles since he was very young and has never ridden a chopper with really high handlebars. Comments on safety and handlebar height.
282	Westbrook	States he is sure Harley Davidson and other motorcycle manufacturers have done studies about handlebar height. States there is not a motorcycle manufactured with the very high handlebars. Believes handling and braking are improved with lower handlebars.
298	Chair Shannon	Asks Westbrook if he testified before the House committee.
299	Westbrook	States he testified before the House committee.
300	Chair Shannon	Asks Hageman if he testified.
301	Hageman	States he did not testify.
301	Sen. Hannon	References provisions of ORS 814.300. References his previous comments about handlebar height and a chargeable offense.
318	Westbrook	States he believes what Sen. Hannon described would not be a violation of the intent of the law, but may be a technical violation.
322	Sen. Hannon	Asks if enforcement has been a problem with a few officers.
326	Westbrook	States testimony he heard in the House committee indicated citations have been issued for instances such as Sen. Hannon described. Believes that is a law

		enforcement educational problem.
334	Sen. Castillo	Clarifies no motorcycle manufacturers place handlebars above shoulder height.
338	Westbrook	States some changes are made after-market.
346	Vice Chair Yih	Requests clarification of "fastening point."
349	Westbrook	States that is where the handlebar fastens to the top of the front fork.
357	Vice Chair Yih	States Wisconsin's provision is 30 inches above the seat. Asks how that is for handlebars.
360	Westbrook	Explains it depends on the motorcycle.
375	Teresa Hepker	BikePAC. Submits written information in support of HB 2613 [EXHIBIT A] . States LeRoy Hecker's picture is in the larger packet, and Russ Robert's picture is in the smaller packet. States she knows of no safety rule for the law. Believes the law is used to harass a certain portion of the motorcycling population.
TAPE 41, A		
007	Sen. Hannon	References the picture of Robert on his motorcycle. States when he turns his hand probably goes up above the shoulder.
012	Russ Robert	States in normal circumstances, his hand would not go above his shoulder.
013	Sen. Hannon	States Robert was stopped for a violation based on someone's interpretation of the statute.
015	Robert	States the officer said he had "poor posture."
016	Sen. Hannon	Asks if he was leaning back.
017	Robert	States his wife was behind him on the motorcycle. States the citing officer refused to take his picture, although other officers had photographed him without his permission.
024	Sen. Hannon	Asks where this happened.
024	Robert	States in the city of Eugene.
026	Sen. Hannon	Asks if the officer cited any particular statute.
026	Robert	States the officer did not cite a statute.
027	Sen. Hannon	Asks if the officer cited him.
027	Robert	States he was issued a citation.
029	Hepker	States Robert's ticket is not included in the packet.

031	Sen. Hannon	States he wonders what statutory reference was used for poor posture.
033	Robert	State he was cited for violation of ORS 814.300.
035	Sen. Hannon	Expresses concern for the citation.
043	Hepker	States he used the illegal handlebar statute.
044	Sen. George	States he would be cited all the time because of his bad back.
052	Sen. Dukes	Asks what happened with the ticket.
052	Roberts	States he is going to court on the 26 th (March).
054	Hepker	Explains Hecker tried to take his case through the court system, and he was convicted despite all his efforts.
061	Sen. Hannon	Discusses the height of Heckeris handlebars. Asks Hecker if the office used the same explanation that when he turned his hand went above his shoulder.
068	Hecker	States that is what he was cited for.
069	Sen. Hannon	References the citation for "illegal motorcycle handlebars." Asks how the handlebars became illegal.
074	Chair Shannon	Clarifies it was when he turned and his hand went above his shoulder.
075	Sen. Hannon	Clarifies the witness was fined \$115.
077	Hecker	Discusses what happened when he went to court.
085	Sen. Hannon	Asks if repeal of ORS 814.300 would achieve what the motorcyclists are after.
088	Hecker	States he believes it would. States if he was guilty of leaning and turning the same would hold true going up a steep hill.
096	Sen. George	Comments on overzealous officers. Asks the witnesses if they believe these situations lend themselves to a good relationship between the constituent riders and law enforcement.
		One of the witnesses responds "yes."
103	Sen. George	Comments on his experience riding motorcycles on the streets of a small town while he was growing up.
121		Closes public hearing on HB 2613. Opens work session on HB 2613.
<u>HB 2613 WORK SESSION</u>		
123	Sen. Hannon	MOTION: Moves HB 2613 to the floor with a DO PASS recommendation.

		<p>VOTE: 6-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 1 - Ferrioli</p>
	Chair Shannon	<p>The motion CARRIES.</p> <p>Sen. SHANNON will lead discussion on the floor.</p>
133	Chair Shannon	Closes work session on HB 2613. Opens public hearing on SB 773.
<u>SB 773 PUBLIC HEARING</u>		
145	Art Schlack	Association of Oregon Counties (AOC). States he and David Barenberg participated in a group that looked at access management issues, and SB 773 was born as a result of the group's efforts. Urges the committee's support of the bill. Reviews provisions of the SB 773-1 amendments [EXHIBIT B] .
183	David Barenberg	League of Oregon Cities (LOC). States he agrees with Schlack's testimony. Extends thanks to the interim committee for forming the work group. Recognizes the Department of Transportation's (ODOT) efforts.
193	Schlack	States he understands ODOT supports the amendment.
196	Sen. Hannon	References language in subsection 4 of the SB 773-1 amendments. Asks what section delegates liability if an access permit is issued and the state opposes it.
208	Schlack	States that issue has been a topic of discussion. States AOC's belief if the standards are the same whether it is ODOT or local government. States the problem of liability will be worked out through the memorandum of understanding (MOU).
217	Sen. Hannon	States that if you are an agent of the state, all you need to do is tell the suing individual to deal with the state.
223	Barenberg	Discusses the group's intent to allow permissive language.
243	Sen. Hannon	References provisions on lines 6 and 7 of the SB 773-1 amendments. States the language is not permissive, but mandatory.
250	Barenberg	States the amendment says, "... may enter into a memorandum of understanding setting provisions. ..." Explains the circumstances under "shall adopt rules" could say "assumption of liability."
260	Chair Shannon	States the bill happened because when people have problems with ODOT's decisions, the department tells them that they will see them in court.
265	Sen. Hannon	States he does not want someone issuing access to a road with a 55-mph speed limit and not assuming the liability that goes with it.
272	Chair Shannon	Comments on what ODOT can tell you that you are responsible for if you have access.

278	Sen. Dukes	States she thinks Sen. Hannon's concerns are legitimate. States there could conceivably be different sets of requirements for access by area the way the amendment is written. Believes that is a worse system than there is today. Believes there needs to be state rules.
297	Chair Shannon	States she wants to make things better, not worse.
298	Schlack	States AOC has discussed the issues raised by Sen. Hannon and Sen. Dukes. Believes transportation plans being developed should have access management standards and be done in partnership with ODOT.
309	Sen. Dukes	States if there is a transportation plan for a county that is different than the access management plan, the county can issue access permits. Believes the access rules from the Transportation Commission will be general, not very specific. States access plans are supposed to be regulated by ODOT, but they are different. States she would like to see consistency across the state.
327	Scott	States SB 773 conjures up several different items. States there are issues involving comprehensive plans and also safety and function. States it is his impression that it was never contemplated that the local plan would not drive the process.
342	Sen. Dukes	References the language in the amendment about issuing access permits for regional and state highways.
347	Barenberg	Explains the intention is to have consistency everywhere on an ODOT policy on access. States if ODOT is going to delegate authority for issuing the access permits to a local government, the standards should be incorporated into the local plan.
364	Sen. Dukes	Asks the witnesses why their associations want to do this bill.
365	Barenberg	States some cities may want to do the permitting process, such as Sandy. The bill allows permissive language.
386	Sen. Dukes	States this is how building code permits started.
390	Vice Chair Yih	Asks how the 50,000 population was determined. Believes 35,000 or 30,000 population is more reasonable.
399	Barenberg	States that is an issue ODOT will raise. States there should be consistency for cities no matter what the size.
408	Vice Chair Yih	Asks if more cities should be included in the process.
410	Barenberg	States he agrees more cities should be included.
418	Sen. Dukes	States why she disliked the first access management draft from the Transportation Commission.
TAPE 40, B		
004	Barenberg	States LOC would prefer language that deals with granting a permit that is more consistent with acknowledged comprehensive plans.

007	Sen. Dukes	Asks about doing a policy at the state level and then it would be possible for ODOT to enter into a memorandum of agreement with cities and counties to issue permits.
012	Schlack	References provisions in Section 2 of SB 773. States subsections (1), (2), and (3) relate to ODOT; subsection (4) relates to local government and the MOU. Reviews the provisions.
030	Lynn Peterson	Transportation Advocate, 1000 Friends of Oregon. States 1000 Friends is neutral on SB 773, but they are generally supportive of the bill's intent. Offers revisions to the bill. States she will provide copies of her testimony.
093	Tim Ramis	Lawyer, Portland, Oregon. States he is not representing any particular client. States he represents cities as their attorney and also represents development applicants in his practice. States he was part of the access management work group. Discusses his experience with access management. Submits an article he wrote at the request of the University of Oregon Law School on access management [EXHIBIT C] . Comments on three principle concepts in the bill: fair procedure, the need for written standards, and a unitary growth system.
145	Ramis	Continues his discussion of the three principles.
174	Frank Parisi	Lawyer, Home Depot, and represented Fred Meyer for their Florence store. States Home Depot faces access issues for all its stores. States Home Depot likes ODOT. Discusses issues relating to Home Depot and its access management needs.
225	Parisi	References Sen. Dukes' comments about the legislature deciding access policy. States he would like to see the policy made in the legislature, but does not know if it is possible. Expresses concern that the bill does not deal with content of the rules.
273	Sen. George	Comments on the Fred Meyer in Beaverton on ORE 217. States he has photographed the area and asks the witnesses if they are familiar with the area. Comments on the road design that had no net gain in roadway. States he wonders if the local government bought into the plan.
333	Vice Chair Yih	Asks Parisi if he has any amendments and if he believes the rules should be subject to legislative approval.
342	Parisi	States access permits ought to be subject to recording and conveyancing rules. States he does not have a written amendment.
348	Chair Shannon	States the committee will ask ODOT what they propose the rules look like and then tell the committee within two weeks. States the committee will put together a work group if a recommendation is not reached.
375	Craig Greenleaf	Deputy Director, Transportation Development, ODOT. Submits and presents testimony [EXHIBIT D] . Discusses ODOT's concerns about SB 773 and their proposed language.
415	Chair Shannon	In response to Greenleaf's comments about the 50,000 population, asks if ODOT agrees with 1000 Friends.
416	Greenleaf	States ODOT agrees with 1000 Friends. References ODOT's proposed language for Section 2(1)(b).

TAPE 41, B		
0015	Greenleaf	Continues review of ODOT's concerns and proposed language.
063	Chair Shannon	Asks Ramis if his comfort level has been raised based on ODOT's testimony.
065	Ramis	States he is concerned about some of the proposed amendments.
068	Chair Shannon	Suggests the committee should have another meeting in two weeks to discuss the rules.
075	Ramis	Discusses his concerns with ODOT's proposed language.
096	Vice Chair Yih	States she believes it is a good idea to have another meeting in two weeks.
098	Chair Shannon	Sates she wants the work group to look into the issues.
104	Greenleaf	States ODOT can provide an outline of concerns revolving around rulemaking. States ODOT has convened a group to begin discussions about the administrative rules. States what ODOT could advance at this point may not be complete with respect to the committee's concerns. Comments on a general set of factors, which ODOT believes need to be considered: the general permitting process, spacing of the intervals between access points, and the treatment of medians.
137	Chair Shannon	Asks about alternatives for ODOT. Comments on ORE 214 in Woodburn. States property owners are giving ODOT right of way to prevent a median.
143	Greenleaf	States ODOT has moderated language in proposed highway plan to deal with a more flexible treatment with respect to medians. Discusses the treatment of variances. States reasonable access and grants of access need to be clearer and spelled out in rulemaking
178	Chair Shannon	States there is a lot of interest to move the bill. Asks Ramis if he has any clarification for Greenleaf.
184	Ramis	States his counterpart, Mark Whitlow, has some specific suggestions. Explains there are letters from Whitlow included with his testimony.
189	Chair Shannon	Clarifies Whitlow will work with Greenleaf.
197	Sen. Castillo	References language in Section 2(1)(e) "contrary evidence submitted by a qualified expert." Asks the witnesses if they heard 1000 Friends' testimony and what they thought of Peterson's suggestion for wording.
206	Ramis	States he asked Peterson to fax a copy of her testimony to him. Expresses concern about submitting criteria for the requirement of an expert.
215	Chair Shannon	Comments on concerns that arose during the Efficiency Report that when dealing with ODOT, there was not a level of expertise making decisions.
223	Scott	Asks Greenleaf if ODOT has a position on the recordation of access rights once they have been granted.

228	Greenleaf	States he does not know if anyone has advanced that specific proposal and he is hesitant to say it is the best treatment.
251	Chair Shannon	Closes the public hearing on SB 773. Declares the meeting adjourned at 4:48 p.m.
		Staff submits testimony on behalf of Lynn Peterson, 1000 Friends of Oregon, on SB 773 [EXHIBIT E] . Staff submits written testimony on behalf of Robert LeFeber in support of SB 773 [EXHIBIT G] .

Submitted By, Reviewed By,

Valerie Luhr, Don Scott,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2613, written information, Teresa Hepker, 14 pp.

B ñ SB 773-1 amendments, Staff, 1 p.

C ñ SB 773, written information, Tim Ramis, 45 pp.

D ñ SB 773, written testimony, Craig Greenleaf, 3 pp.

E ñ SB 773, written testimony, Staff, 3 pp.

F ñ HB 2613, written information, Alan Hageman, 1 p.

G ñ SB 773, written testimony, Staff, 2 pp.