

**SENATE COMMITTEE ON TRANSPORTATION**

March 31, 1999 Hearing Room C

3:05 p.m. Tapes 49 - 50

**MEMBERS PRESENT: Sen. Marylin Shannon, Chair**

**Sen. Mae Yih, Vice-Chair**

**Sen. Susan Castillo**

**Sen. Joan Dukes**

**Sen. Ted Ferrioli**

**Sen. Gary George**

**Sen. Lenn Hannon**

**STAFF PRESENT: Don Scott, Administrator**

**Valerie Luhr, Administrative Support**

**MEASURE/ISSUES HEARD: Invited testimony on weight-mile tax**

**SB 478 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
<b>TAPE 49, A</b>		
005	Chair Shannon	Calls the meeting to order at 3:17 p.m. Opens an informational meeting on weight-mile tax. Provides introductory remarks about the weight-mile tax informational meeting.
<b><u>Weight-mile tax informational meeting</u></b>		
014	Bob Russell	Oregon Trucking Associations. Introduces Daryl Capurro.

025	Chair Shannon	States she wants Capurro to address how Nevada's program has been a failure.
029	Russell	Introduces Ed King.
037	Daryl Capurro	Managing Director, Nevada Motor Transport Association. States he has represented the industry in Nevada for 30 years. Discusses a 1988 lawsuit filed against the state of Nevada by a group of Utah carriers, which was based upon the results of a landmark case from Pennsylvania. States up to the time of the lawsuit, Nevada had a fuel tax on diesel, a registration fee, and a third structure mileage tax. Explains how the mileage tax was an option. States the potential loss to the state was around \$75 million. Comments the Nevada governor's willingness to consider the elimination of the mileage tax altogether. Discusses his association's work with Nevada's motor vehicles department to create a two-structure tax system (which is employed in 44 other states) and resulting legislation. States the current registration fee for an 80,000-pound combination is \$1,384 and the diesel fuel tax rate is 27 cents. Nevada also has a .75 cent rate for petroleum clean up and the fourth or fifth highest diesel tax in the country, and their registration fee is in the middle.
104	Chair Shannon	Clarifies California's tax is 25 cents. Ask if truckers can gas up in California and skip the truck stops in Nevada.
108	Capurro	Answers all states are a party to the International Fuel Tax Agreement (IFTA). Explains it does not make a difference where the fuel is purchased, and the tax is paid to the state through which a trucker runs.
120	Chair Shannon	States a strong argument about Oregon's switch is that drivers will fuel up in California and drive to Washington without stopping at Oregon truck stops.
123	Capurro	Answers that is a factor of what fuel costs, rather than the difference in the tax.
129	Chair Shannon	Asks if Nevada has experienced a shutdown of truck stops since they switched to a fuel tax.
130	Capurro	Answers Nevada has had an increase in truck stops. Discusses Nevada's concern about fuel tax evasion. Comments on Nevada's 1983 legislation to put the tax at the pump and the results, which revealed diesel tax collections went up 25 percent and the mileage tax remained flat. Discusses why Nevada's two-structure system resulted in a \$4.5 million dollar loss for the first two years.
172	Capurro	Discusses federal tax evasion. States the federal government went to a tax at the terminal rack. States Nevada passed a law in 1985 which put the diesel tax collection at the terminal rack, which resulted in a \$12 million revenue increase beyond refunds, credits, and normal growth.
197	Chair Shannon	Clarifies the rack is the first place the fuel comes into the state, then it goes to jobbers, and then to service stations. Nevada formerly did not tax at the rack.
205	Capurro	Indicates Chair Shannon is correct. Nevada taxed at the retail service station level. Gasoline tax was and is collected at the distributor level, and Nevada has current legislation to raise the gasoline tax to the terminal rack, as well. Indicates Nevada had a 50 percent evasion of the mileage tax and does not have ports of entry. Indicates Nevada motor vehicles department likes the state's current system. Indicates any legislation to reintroduce the weight distance tax has failed. States a weight distance tax bill has not been introduced in Nevada's current legislative

		session. Indicates that any state that has switched from a weight distance tax to the traditional two-structure tax would never go back. States that being under the International Fuel Tax Agreement and the International Registration Plan (IRP) provides comfort to state administrators that they will receive the fees to which they are entitled.
262	Chair Shannon	Asks if it is correct that 45 states receive federal fees to help collect taxes and Oregon does not.
270	Capurro	Answers that Chair Shannon is correct. Oregon does not have a fuel tax whatsoever, but must collect fuel taxes for other states from base carriers for which Oregon receives nothing. Comments on problems of the mileage tax or derivative of a third-structure tax. States Nevada has 1,500 Nevada-based carriers, but there are almost 16,000 non-Nevada carriers that traverse the state.
300	Chair Shannon	States there are 188 auditors for the United States and Canada.
306	Sen. George	Indicates he received a call on a local radio show in which the person asked if it was a good idea for the money to go to the federal government and then trickle back to the states. Asks Capurro to explain how the international agreement collects the taxes, who collects it, and how much is returned to the states.
314	Capurro	Indicates the money collected under IRP and IFTA is not federal money, but is state money. The federal money for fuel taxes is remitted to the federal government and comes back to the states via the Transportation Equity Act for the 21 <sup>st</sup> Century (TEA 21).
325	Sen. George	Further clarifies the collection and distribution of tax moneys.
333	Capurro	States the money Oregon collects in its fuel taxes, registration fees, and any state fees remain in the state.
336	Sen. George	Clarifies what happens to the dollars under the international agreements.
338	Capurro	Answers that for a Nevada-based carrier that operates into Oregon, Nevada would collect the entire registration fee from that carrier including Oregon's fee, and remit it to Oregon, and vice versa.
350	Sen. George	Asks if Oregon is the only state that has not gone to a fuel tax.
354	Chair Shannon	States five states have not.
355	Sen. George	Asks if any states that converted to a fuel tax have gone back to a weight-mile tax.
356	Capurro	Indicates Oregon is the only state that does not charge a fuel tax of some sort. Answers that no states have gone back to a weight-mile tax. Indicates a bill in Arkansas to reinstate fuel tax was defeated.
372	Chair Shannon	Indicates Arizona went back and forth from one tax to another and currently does not have a weight-mile tax.
382	Capurro	Answers that Arizona had a gross receipts tax and then evolved to weight-distance tax, which they eliminated over a three-year period and have not gone back.

393	Ed King	Chief, Fuel Taxes Division, Board of Equalization, State of California. Comments on his background, which includes 22 different tax programs. Discusses California's experience over the last six years. Indicates the state studied the issue of diesel tax administration and made significant changes in their administration of the program. Indicates California never had a weight-mileage program, but selected different points of taxation for its diesel tax program. Discusses California's major changes over the last six years to improve its diesel tax administration. Indicates California participates in many national, international, and state task forces dedicated to working on fuel tax evasion.
<b>TAPE 50, A</b>		
001	Ed King	Discusses results of the changes California has made and impacts on the state. Indicates in 1993 California had over 10,000 taxpayers, both carriers and petroleum industry registered; and today they have 6000. Indicates the burden on taxpayers has been reduced. Indicates California collects \$400 million on diesel taxes, and about 80 percent of the money comes from less than ten taxpayers because California collects the tax at the rack. Discusses increases in California's diesel tax revenues since 1993. Believes it is advantageous for bordering states to have similar tax programs. Recommends that Oregon tax at the rack, not retail or wholesale.
018	Chair Shannon	Requests King clarify how many taxpayers California had and the taxes collected.
019	King	Indicates every carrier that drove any miles in California was required to file a return in California. California now taxes at the rack and 10,000 carriers are taxed, and the state receives 20 percent more money about \$70 million annually.
024	Chair Shannon	Requests a copy of King's notes.
025	King	States he will have his notes printed. Indicates California was a retail location also requiring carriers to file how much diesel they consumed within the state, which was prior to IFTA. Indicates now California does not need to register all carriers because of IFTA and the Bay State Concept.
036	Chair Shannon	Clarifies her understanding.
038	Sen. Castillo	Comments on a recent presentation on cost responsibility and how Oregon pays weight mile and other fuel taxes. Oregon is a model for the rest of the country in terms spreading out the tax burden. States the presenter indicated the heavier trucks in California were not paying their fair share. Asks the witnesses to address cost responsibility issues in their states.
056	Chair Shannon	In addition to Sen. Castillo's request, asks if Oregon will still be doing cost responsibility in six years if it switches.
059	King	Indicates California is in the process of doing a study and California is one of few states under IRP that still has a "trailer responsibility" instead of the cab for registration purposes.
067	Capurro	Discusses results of last officially recognized cost allocation study done in Nevada, which showed that heavy vehicles were paying their responsibility. The study was accepted by the Nevada legislature.
090	Chair Shannon	Asks if in-state truckers are being hurt by the way Nevada taxes trucks.

094	Capurro	Answers the argument arises that a trucker is a hundred percent Nevada-registered and all miles are in Nevada, but the interstate carrier pays only a portion of the fees. States the interstate carrier may be a Nevada-based carrier who operates interstate, but pays a full registration fee the same as the intrastate carrier.
122	Chair Shannon	Asks Capurro if he is indicating the intrastate trucker gets out of the business if he is not happy.
126	Capurro	States those who want to revisit the weight-distance tax foster that belief in that they focus on the registration side and not on the total picture. States there will always be the individuals who say they are paying more for registration on a per mile basis, but if total costs are taken into account including fuel tax, they are not paying more.
146	Chair Shannon	Indicates Capurro said what she wanted to hear. Comments that intrastate truckers could have introduced legislation to repeal the fuel tax. Closes the informational meeting. Opens a public hearing on SB 478.
<b><u>Sb 478 public hearing</u></b>		
158	Don Scott	Committee Administrator. Reviews provisions of SB 478.
165	Chair Shannon	Announces she will not hold a hearing on SJR 11.
172	Sen. Avel Gordly	Senate District 10. Submits and comments on written information <b>[EXHIBIT A]</b> in support of SB 478. Extends thanks to Chair Shannon for being an advocate for safety. States her belief that cellular phones are a safety threat when used while driving a vehicle. Indicates a Union Pacific engineer involved in a fatal train-truck accident supports SB 478.
215	Sen. Gordly	States the Oregon State Police (OSP) indicated they had sufficient laws to address safety issues, but not enough troopers to perform basic traffic patrols. Comments on her public awareness campaign with the Oregon Department of Transportation (ODOT) and the Oregon State Police. Introduces Troy Costales, Curt Curtis, and Dan Hartman. States Bruce Adamson and Rep. Chris Beck may also testify.
246	Chair Shannon	Asks Sen. Gordly if she is leaving.
247	Sen. Gordly	Explains she must go to another committee.
250	Chair Shannon	Comments on a chart she has indicating causes of traffic accidents, none of which are outlawed. Asks Sen. Gordly if she has any comments.
265	Sen. Gordly	States she would like to defer comments on the State Police and ODOT. States cellular phone use while driving is also a common sense issue.
305	Curt Curtis	Sergeant, Oregon State Police. Submits and presents testimony to express concerns regarding the language in SB 478. <b>[EXHIBIT B]</b> . Requests the committee consider exemptions for law enforcement and emergency service providers and people in direct contact with emergency service providers. Comments on safety issues related to driving.
376	Troy Costales	Manager, Transportation Safety Division, ODOT. Submits and presents testimony on SB 478 <b>[EXHIBIT C]</b> . Comments on ODOT's involvement with public service

		announcements. Indicates cellular phone use is now addressed in the <i>Oregon Driver's Manual</i> . States ODOT requests the committee to consider the impact on ODOT employees who are in emergency and maintenance situations.
<b>Tape 49, B</b>		
005	Costales	States ODOT's traffic crash database counts those crashes for which a law enforcement officer reported a cellular phone was in use or a driver admits to cell phone use. ODOT has been tracking cellular phone use in traffic crashes since 1996.
014	Chair Shannon	Asks the committee members if they have information from the Distracted Driver Task Force, which indicates there were more accidents caused by daydreaming than smoking, drinking, talking, radio use, and others.
022	Sen. George	Asks how many total accidents occurred.
025	Costales	Submits a data table of statewide crashes involving cellular phones for January 1, 1996, to August 31, 1998 [EXHIBIT D]. Indicates there are 49,000 crashes in Oregon each year.
029	Sen. George	Asks how many illegal activities occurring on the highway were reported by people with cell phones while in a car.
033	Curtis	States it is estimated 2.8 million calls come in regarding incidents or needs for assistance.
038	Chair Shannon	Asks if it is 2.8 million calls per year. Asks Costales if ODOT keeps track of accident causes in Oregon.
048	Costales	Answers ODOT accident database does not go into the level of detail Chair Shannon is describing.
052	Curtis	States a California Highway Patrol study of cellular phone calls to 911 traffic centers indicated 2,176,000 calls in 1995 and 2.8 million calls in 1996.
060	Sen. Castillo	Asks Curtis if he believes the law to enforce violations resulting from use of two-way radio should be repealed.
076	Curtis	States he is not aware of any law in Oregon statute that pertains to the use of a two-way radio. Indicates his testimony references other laws.
090	Costales	States if a two-way radio or cell phone was part of the accident cause, there is currently a way to enforce it.
093	Sen. George	Comments on television program that had segment dealing with an accident was caused by spilled coffee. Indicates he was in an ODOT vehicle in which there were four cell phones, an FM radio, and a CB; and state troopers have an FM cell phone and a CB. Asks what other types of radio or telephone devices are in a patrol car.
106	Curtis	Explains it depends upon the area in which a trooper is working.
114	Chair Shannon	Clarifies there are four devices in a state patrol vehicle and state police would be

		exempted from the bill.
118	Curtis	States he sees SB 478 as an educational tool if it does not pass.
135	Dan Hartman	Chief Risk Officer, Risk Management Division Department of Administrative Services (DAS). Submits and presents testimony in support of SB 478 <b>[EXHIBIT E]</b> . Comments on the agency's mission.
154	Sen. George	Asks how many accidents involve other communication devices installed in a vehicle.
155	Hartman	States he does not have the information.
158	Sen. George	Indicates the state of Oregon owns about 5,000 vehicles.
160	Hartman	Indicates the state owns about 11,000 vehicles.
163	Sen. George	Asks what percentage of the vehicles have communication devices.
164	Hartman	States he does not have the information. Indicates Risk Management handles citizens' complaints.
167	Chair Shannon	Asks if the citizens complain about legislators.
168	Hartman	Indicates the legislators complain about state employees who drive state vehicles. Reviews provisions of the DAS cellular phone policy, 03-19. Reviews provisions of ORS 18.590 and suggests the sanctions as an incentive to discourage cell phone use while driving.
212	Sen. George	States irregular speeds affect traffic flow and accident rates. Asks if anyone has determined whether pulling off to the roadside to use a cell phone causes accidents.
224	Hartman	Shares Sen. George's concern. References provisions in the cellular phone rules.
232	Vice Chair Yih	Asks Hartman if he believes state employees should have a way to make phone calls in emergency situations.
239	Hartman	States he believes cell phones are a good emergency tool. States the emergency has caused employees to stop and so would not be driving while using a cell phone.
252	Vice Chair	Asks if the bill allows cell phone use when a vehicle is stopped.
254	Chair Shannon	Indicates the bill does not address the issue. Announces she will not hold a hearing on SB 757 today.
275	Neil Grubb	Vice President/General Manager, AT&T Wireless Services, Oregon. Submits and presents testimony in opposition to SB 478 <b>[EXHIBIT F]</b> . States AT&T believes the legislation is unnecessary. States AT&T promotes safe driving. States cellular phones are an asset to our communities. Urges the committee to reject SB 478.
320	Gary Bauer	Oregon Telecommunications Associations. Submits and presents testimony in

		opposition to SB 478. <b>[EXHIBIT G]</b> . States drivers encounter activities everyday that distract them from their driving. Indicates public employees use two-way communication devices as a daily part of their jobs. Does not believe singling out cellular phones will solve the safety equation.
370	Bauer	Comments on the 1997 study previously referenced by Sen. Gordly, which indicated there is no causal relation between the use of wireless phones and subsequent motor vehicle collisions. Requests the committee not approve SB 478.
3844	Richard Koesan	AirTouch Communications. Submits written information <b>[EXHIBIT H]</b> . Indicates he agrees with the previous witnesses' testimony. States there are provisions in existing statutes to address careless and reckless driving. States the issue is one of driving safely and minimizing distractions.
415	Chair Shannon	States to Sen. Castillo that there are 59,000 calls a day nationwide to report accidents and safety issues.
424	Brian DeLashmutt	Nextel. Emphasizes that in any studies or information being gathered by law enforcement, there is a three-step process: is there a cell phone, is a cell phone in use, and was the driver using the cell phone at fault and was the accident the result of the driver's cell phone use. Believes making the assumption on an accident report that the cell phone was the accident cause is inappropriate.
445	Chair Shannon	Comments on the Minnesota study provided by Koesan. Closes public hearing on SB 478. Declares the meeting adjourned at 4:40 p.m.

Submitted By, Reviewed By,

Valerie Luhr, Megan Palau,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 478, written information, Sen. Avel Gordly, 16 pp.**

**B ñ SB 478, written testimony, Curt Curtis, 4 pp.**

**C ñ SB 478, written testimony, Troy Costales, 1.**

**D ñ SB 478, written information, Troy Costales, 1 p.**

**E ñ SB 478, written testimony, Dan Hartman, 4 pp.**

**F ñ SB 478, written testimony, Neil Grubb, 2 pp.**



**G ñ SB 478, written testimony, Gary Bauer, 2 pp.**

**H ñ SB 478, written information, Richard Kosesan, 13 pp.**