

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 24, 1997 Hearing Room D

08:30 AM Tapes 70 - 71

MEMBERS PRESENT:

Rep. Charles Starr, Chair

Rep. Terry Thompson, Vice-Chair

Rep. Dennis Luke

Rep. Ken Messerle

Rep. Kurt Schrader

Rep. Judith Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Judith Gruber, Administrator

Linda Kowal, Administrative Support

MEASURE/ISSUES HEARD:

HB 3302 Work Session

HB 3716 Public Hearing HB 3110 Public Hearing

HB 2498 Public Hearing

HB 2741 Public Hearing

HB 2498 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 70, A		
007	Chair Starr	Calls the meeting to order at 8:34 am and opens the work session on HB 3302.
<u>HB 3302</u> <u>WORK</u> <u>SESSION</u>		
017	Rep. Wells	Clarifies that (EXHIBIT A) will be the vehicle that addresses this issue rather than the bill by Rep. Simmons which would have allowed open season year around and changed the fee from \$50 to \$10.
026	Chair Starr	States the -2 amendments would change the implementation date from 1998 to 1999. The department is concerned that they will have trouble implementing this in 1998. States he would like to go forward without the amendment and in the next couple of weeks if they decide they really can't implement it then the committee could accept an amendment on the Senate side.
040	Rep. Uherbelau	Asks what Rep. Wells is referring to.
042	Rep. Wells	Responds that Rep. Simmons' bill would have reduced the fee from \$50 to \$10 and changed the hunting season.
045	Rep. Wells	MOTION: Moves to ADOPT HB 3302-1 amendments dated 04/16/97.
	Chair Starr	Hearing no objection, declares the motion CARRIED.
048	Rep. Wells	MOTION: Moves HB 3302 to the floor with a DO PASS AS AMENDED recommendation.
052		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Starr	The motion CARRIES.
	Chair Starr	The motion CARRIES. REP. SOWA will lead discussion on the floor.
063	Chair Starr	Closes the work session on HB 3302 and opens the public hearing on HB 3716.
		Faxed testimony from Veterinarians Opposed to Inhumane Hunting Practices submitted as (EXHIBIT B)

<u>HB 3716</u>		
<u>PUBLIC</u>		
<u>HEARING</u>		
070	Rep. Tim Josi	District 2, states this bill was drafted to address the concerns of law enforcement forestry personnel in regard to cases such as a recent one in Clatsop County. A logger caused damage to Coho and Chinook Salmon habitat, violated the Forest Practices Act requirements regarding riparian areas, and failed to notify forestry officials before logging. This logger has a 20 year history of logging violations including unpaid civil penalties and is accused of 20 counts of illegal logging including three felony charges. He continues to operate. This bill makes necessary changes in the Forest Practices Act to prevent willful violators of the Act from continuing to submit new notifications and conducting new operations.
085	Jim Brown	State Forester, submits and reads (EXHIBIT C).
110	Rep. Luke	Asks what the appeal process is when they are found in violation.
116	Charlie Stone	Director, Forest Practices Program. Answers when an operator is found in violation a citation is issued, followed by a repair order to do something about the violation or a civil penalty can be assessed. The operator has 30 days to request a hearing before an independent hearings officer. Adds that 50 to 60 percent of the cases are settled without having to go to a hearing.
131	Rep. Luke	Asks if someone is going through this process does this bill kick in or is it after final orders?
133	Stone	Answers after final orders.
135	Rep. Messerle	Asks how often this would be an issue.
136	Stone	Answers they get about 20 to 24 thousand notifications on operations a year. From that, 300 to 400 citations are issued and people who ultimately get a civil penalty number about 40 cases. People who don't comply with repair orders after they've had a chance to be heard makeup about four or five cases a year where they may use this mechanism. The bill doesn't specify it can't be used for first time offenders.
149	Rep. Messerle	Asks if this would be for one violation or a pattern.
157	Stone	Answers the bill doesn't specify that it can't be used on first time offenders. Their intent would be not to invoke this unless they detect a pattern and there's a reason to move them along. They plan to use it with discretion.
167	Rep. Messerle	Asks for the record, if an individual who had a violation corrected it or paid their fine as opposed to someone who just refused to comply at all, is there a difference as to when this would kick in?
173	Stone	Answers if a person complies in a timely fashion with a repair order or penalty it wouldn't kick in at all.

176	Rep. Messerle	Asks about a person who continuously has violations.
180	Stone	Responds there are other ways to deal with operators who continue to have problems but as long as they are making the corrections when ordered and paying their penalties they would not be stopped from starting new operations.
187	Ray Wilkeson	Oregon Forest Industries Council. (EXHIBIT D) States the forest landowner community supports this bill. The Forest Practices Act has been on the books since 1971 and compliance with the Act is very high. Enforcement is not an issue for most people but you need adequate tools to deal with the few cases that are a problem.
233	Rep. Josi	Concludes that legislators seldom bring bills forward on their own, they do this on behalf of their constituents. In this case the constituent happens to be his legislative assistant who is a small forest land operator with a neighbor that has been operating inappropriately for years. He owes thousands of dollars in fines and there has been no mechanism to curtail his practice, he flaunts the law.
259	Mike Miller	Executive Vice President of Associated Oregon Loggers. States this organization has been around for 30 years and is the largest association of its kind in the US and maybe the world. They are strong supporters of the Forest Practices Act. Outlines the processes available and asks how often it's used.
311	Stone	Responds to Miller's question. States the two processes he described have rarely been used. The process of having the Board of Forestry direct the State Forester to make corrections has only been used once in the entire history of the Forest Practices Act. The Circuit Court order process has been used approximately 20 times in ten years.
352	Chair Starr	Closes the public hearing on HB 3716 and opens the public hearing on HB 3110.
<u>HB 3110 PUBLIC HEARING</u>		
362	Rep. Terry Thompson	District 4. Comments his staff has been working with Rep. Josi on this bill for a long time.
372	Rep. Josi	States they had a couple of bills melt together and this is not the final product. In a meeting this morning they had representatives from the Oregon Department of Fish & Wildlife, (ODF&W), Division of State Lands (DSL), Oregon Department of Agriculture (ODA), and the oyster industry.
402	Rep. Thompson	Comments that last session a bill similar to this was passed by the body and then vetoed. It has taken getting all the players together and working a long time.
408	Rep. Luke	Asks for the status of the -1 amendments.
409	Rep. Josi	Responds the -1 amendments are about 90 percent there.

421	Paul Hanneman	Cloverdale, Oregon. Representing the Oregon Shellfish Association. (EXHIBIT E) Introduces Ron Phillips and states that he'll talk about the significant changes between current law and what is proposed in the -1 amendments.
010	Ron Phillips	Newport, Oregon. President, Oregon Shellfish Association and Oregon Oyster Farms. States this extends the statutory language that includes oyster cultivation to also include the cultivation of clams and mussels. It doubles the leases and severance rates for current shellfish lands. The Governor vetoed this last session because a question arose about the ODA being empowered to lease sections of beaches and blocking them from public use. This bill specifically eliminates the beaches from leasing entirely and limits the planting of clams and mussels to existing oyster plats.
TAPE 71, A		
030	Hanneman	Refers to (EXHIBIT E) page 2, subsection 4, lines 24 - 29. It was agreed this morning that there would be language proposed that refers to not less than one acre.
042	Rep. Thompson	Clarifies for the record it would be not more than 20 percent but not less than one acre.
054	Rep. Josi	Refers to Section 3, the bold language talks about the ODA being in consultation with the appropriate local, state, and federal agencies for an existing plat application when they want to expand their operations to oysters or mussels. They think proper consultation should also exist for new plat applications.
067	Chair Starr	States he senses they are very close to a final bill. Due to the shortness of time he asks that they continue to work on these amendments and bring them back in completed form so they can hold a hearing and work session.
077	Rep. Luke	Asks if a private person can come in and stake a claim under this bill or under current law on state property or do they have to be on private property?
086	Rep. Thompson	Answers the state leases the property to the private owner who then retains use of the property as long as he uses it as intended.
088	Paul Hanneman	Responds nearly all inner tidal lands are state owned. In Oregon, we wouldn't be able to produce any shellfish at all if we didn't lease the plat from the state.
106	Rep. Luke	Asks if the state determines what lands are leased?
110	Phillips	Responds, fundamentally as far as Siletz Bay is concerned, he knows of no leases or applications for leases because the conditions aren't favorable to oysters. ODA is the regulating agency, they circulate the application among the agencies for comment. They have turned down any application that would impair existing publicly harvested clam beds.
131	Rep. Messerle	Asks Hanneman to check out a concern a constituent has and get back to him.

134	Hanneman	States he will follow through.
138	John Stahl	States the original bill that was proposed (HB 2613) was through him and Rep. Josi.
156	Stahl	States the actual fee the ODA received from the oyster industry has been \$2 an acre and five cents a bushel since 1962. By doubling the fees they'll now have ten cents a bushel and \$4 an acre. Presently the oyster industry pays the ODA \$8,500 a year for leasing plats and harvesting oysters.
180	Stahl	Refers to Section 6, line 7 and says this particular rule can't be enacted by the ODA.
189	Rep. Thompson	States that in the meeting today this section was brought up and there are some amendments that may answer this question.
198	Rep. Josi	Responds the existing language cannot be implemented. They came to an agreement to change the language. Refers to page three line ten and states it will read "ODA may withdraw from a claimant and consider abandoned any portion of the unproductive lands," then delete half the next line so it should be, "any portion of the unproductive lands claimed by such claimant."
235	Rep. Thompson	Asks Stahl if he would get together with the others and try to come to some agreement to address his concerns.
248	Rep. Uherbelau	Asks if Section 6 is the only area that he has a problem with.
252	Stahl	Negative, there were more.
254	Rep. Uherbelau	Asks for him to identify them.
255	Stahl	* the aquaculture industry does not have to have a registered surveyor * migration of clams into public property States he will address his other concerns with Rep. Josi.
278	Rep. Schrader	States he has a concern about how much revenue the state receives per acre.
283	Stahl	Responds that from 1981 - 1992 there were 224 acres of leased oyster plats and during that time they harvested a total of 63 gallons of oysters. Of that, the oystermen received \$2,000 (states this is from the ODA) and of that, at five cents a gallon, the state revenue was \$3 and some odd cents.
295	Rep. Thompson	Comments some of these are very small operators and that is one particular bay. The oyster growing situation today and what it will be in the future will greatly increase.
314	Rep. Josi	States the fees in the original bill actually recovered the full costs. The bill is what they agreed to in terms of a fee increase.
329		

	Rep. Uherbelau	Comments if they're not able to resolve the issues then Stahl can come back and voice his objections.
333	Committee	Affirmative.
337	Chair Starr	Closes the public hearing on HB 3110 and opens the public hearing on HB 2498.
		Faxed testimony from Oregon Shores Conservation Coalition submitted as (EXHIBIT F)
<u>HB 2498</u> <u>PUBLIC</u> <u>HEARING</u>		
357	Chair Starr	Recesses the public hearing on HB 2498 and opens the public hearing on HB 2741.
<u>HB 2741</u> <u>PUBLIC</u> <u>HEARING</u>		
364	Rep. Jeff Kruse	District 45. (EXHIBIT G). States the amendments replace the original bill.
395	Rep. Uherbelau	Clarifies: * the original bill says shall implement and the -1 amendments say shall enhance. * the original bill had urban landowners the -1 amendments include suburban landowners also.
405	Rep. Kruse	States this is a significant difference because they are not being asked to create a new program, they are being asked to enhance what's already in place. The clean water side of this works well with the Salmon Plan and there is another resolution that has to do with environmental education.
435	Rep. Thompson	Comments that after looking at the numbers for the Willamette River and the potential for the Steelhead to be in the same situation as Coho, he believes this is appropriate and ahead of the game.
445	Rep. Luke	States he would like to know what funds the Extension Service will have to take to do this. He doesn't want to see another mandate to the Extension Service at the expense of something else.
455	Rep. Kruse	Responds they anticipate a significant role for the Extension Service in the Salmon Plan. Their vision is to address clean water and they cannot address it without the urban piece in there. This is not intended to cut back the Extension Service, it's intended to enhance it.
477	Rep. Luke	States there's no guarantee that the federal government won't list the Coho. His concern is that this is based on something that may not happen and if the mandate's there and the funding isn't, something will have to go.

TAPE 70, B		
034	Roger Fletcher	Associate Director, Oregon State University Extension Service. States subsequent to the introduction of the bill, he met with the Associate Dean of the College of Agricultural Sciences, Head of the Department of Horticulture, and two Master Gardener staff. States the key word in the bill is enhance. This bill will not cause them to redirect resources but it will cause them to redirect some energies within the Master Gardener program. If they run into a situation he will come to Rep. Kruse and explain why.
067	Rep. Luke	Comments that ten years from now it will be in the statute "shall" and it will remain there until someone changes it.
075	Chair Starr	States there will be another public hearing as well as a work session. He thinks this is a good bill and they can discuss the "shall."
087	Rep. Uherbelau	Comments that she doesn't think they need to change the word "shall" and this can be explained in the next work session to alleviate Rep. Luke's concern.
090	Chair Starr	Closes the public hearing on HB 2741 and re-opens the public hearing on HB 2498.
HB 2498 PUBLIC HEARING		
107	Dave Johnson	Vice Chairman, Oregon Fryer Commission and a farmer in the Roseburg area. Submits and reads (EXHIBIT H).
130	Rebecca Johnston	Poultry farmer from Dayton, Oregon. States she supports this bill because it will benefit the producer and the consumer.
135	Rep. Thompson	Asks how many chickens she has.
136	Johnston	Answers one barn of 35,000 chickens.
140	Gerry Bieberle	Oregon Fryer Commission. The Commission has agreed to the -2 amendments which remove the 26 degree provision in the bill. Submits and refers to (EXHIBIT I).
159	Chair Starr	Refers to (EXHIBIT I) and ask if the labels are applied at the time of processing or later.
176	Bieberle	Responds that it's most often done by the processor.
182	Paul Rains	Oregon Fryer Commission. Responds that "federal law says you do not have to label the package but if you do it has to be labeled correctly." The store is responsible to label the product. The Oregon processors prelabel but the out-of-state processors do not.
194	Chair Starr	Confirms that the out-of-state processors do not label their product when it's processed.
196	Rains	Affirmative.
198	Chair Starr	Comments these labels don't indicate whether they're fresh or frozen and asks were these frozen fryer thighs?

201	Rains	The breasts were hard to the touch, the thighs were soft. The issue is there was no state of origin on it.
204	Rep. Uherbelau	Comments that she understands the -2 amendments dropped the fresh/frozen distinction and are concentrating on the state of origin designation.
209	Rains	Affirmative.
211	Bieberle	Comments it restores the original language that you can't sell a frozen bird but it doesn't define frozen.
213	Chair Starr	Refers to the "fresh chicken split breasts" on the second page of illustrations and asks if the label indicates the state of origin.
216	Rains	Responds no, just gives the packer.
222	Chair Starr	Asks if they have other packing facilities outside Gainsville, Georgia.
224	Rains	Responds generally the processors have several processing plants in several states.
228	Rep. Uherbelau	Comments that from a consumer point of view when you see it's packed in Georgia wouldn't you automatically assume it's not from Oregon.
232	Rains	Responds that's correct, but it gets to the issue of conspicuous labeling.
236	Rep. Messerle	Asks for the difference in value between Oregon grown and out-of-state grown.
238	Rains	Answers \$2 to \$3.
254	Steve McCoid	Oregon Grocery Industry Association. States that the Oregon Grocery Industry Association Legislative Committee met last week and are opposed to this bill. Basically they feel the current law is sufficient as it requires fryers to be labeled with the state of origin when they're sold to them.
274	Rep. Uherbelau	Comments if this is current law then it's not being followed because all chickens you buy in the grocery store are not labeled with the state of origin.
282	McCoid	Refers to page one, line 23. States if there are retailers that are not obeying the law that's a different issue. Their members account for 90 percent of the food sold in the state and are opposed to this, they are "happy with the status quo."
308	Bieberle	States the Commission loves the existing law this isn't the problem. The problem is the 9th District Court case in California that says the federal labeling law pre-empts state labeling law and states may not require anybody to label. The Attorney General has told them if they enforce the existing statute they would lose. This bill says to the grocer you may identify the state of origin by any means you choose to do. If HB 2498 is passed, then they have enforcement capabilities.
331	Rep. Messerle	Asks if this will cost the retailer.

335	McCoid	Answers he doesn't know.
338	Rep. Messerle	Comments he's always concerned when a producer group and the marketing arm of the industry are in a battle like this.
358	Rains	Responds the grocery stores are currently using computerized printed wrapping machines. There's no additional labor except for the first time they program it into the machine.
368	Rep. Uherbelau	Comments labeling is already in current law and it's been explained that existing law can't be enforced. Asks if there could be discussions between the groups to explain this law isn't valid anymore and that's the need for the new language.
385	McCoid	States they have a meeting next week and he'll discuss that with them.
387	Rep. Luke	Asks couldn't you invite someone from the Fryer Commission to talk to them?
392	McCoid	Responds that occurred in November and the issue was discussed.
398	Rep. Luke	States this is a different bill now.
400	Rep. Wells	States he has been involved with this group since last summer and has encouraged them to work together on this issue. The Fryer Commission understands they took on some tough issues and he feels this is at a reasonable point now. He would like to see the bill voted on today with the -2 amendments. (EXHIBIT K)
432	Rep. Luke	Comments the bill has controversy and he would like to give them another chance to work it out.
TAPE 71, A		
009	Chair Starr	States to Rep. Wells that he doesn't have the support to move the bill and he doesn't like fights among friends. Closes the public hearing on HB 2498 and adjourns the meeting at 9:55 am.
		Faxed testimony from Veterinarians Opposed to Inhumane Hunting Practices submitted as (EXHIBIT L).

Submitted By, Reviewed By,

Linda M. Kowal, Judith Gruber,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3302, proposed -1 amendments, staff, 2 pp.

B - HB 3302, faxed testimony, Dr. Robert Flecker, 1 p.

C - HB 3716, written testimony, Jim Brown, 2 pp.

D - HB 3716, written testimony, Ray Wilkeson, 2 pp.

- E - HB 3110, proposed -1 amendments, Ron Phillips, 5 pp.**
- F - HB 3110, faxed testimony, Fran Recht, 4 pp.**
- G - HB 2741, proposed -1 amendments, Rep. Jeff Kruse, 1 p.**
- H - HB 2498, written testimony, Dave Johnson, 1 p.**
- I - HB 2498, written testimony, Gerry Bieberle, 2 pp.**
- J - HB 2498, written testimony, Paul Rains, 5 pp.**
- K - HB 2498, engrossed bill including -2 amendments, staff, 3 pp.**
- L - HB 3344, faxed testimony, Dr. Robert H. Flecker, 1 p.**