

HOUSE COMMITTEE ON FULL JUDICIARY

May 28, 1997 Hearing Room 50

7:30 A.M. Tapes 39 - 40

**MEMBERS PRESENT:**

Rep. JOHN MINNIS, Chair

Rep. FLOYD PROZANSKI, Vice-Chair

Rep. ROGER BEYER

Rep. JO ANN BOWMAN

Rep. PETER COURTNEY

Rep. GEORGE EIGHMEY

Rep. LANE SHETTERLY

Rep. CHARLES STARR

Rep. RON SUNSERI

Rep. JUDY UHERBELAU

Rep. LARRY WELLS

**STAFF PRESENT:**

BILL TAYLOR, Counsel

DAVE AMESBURY, Counsel

SCOTT LUMSDEN, Counsel

GINA CROSS, Administrative Support

**MEASURE/ISSUES HEARD:** Work Session: SB 811, SB 268, SB 473, SB 270, SB 780, HB 2433, HB 2751, HB 2920, HB 3357

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 39, A		

003	Chair Minnis	Calls meeting to order at 7:35 a.m.
<b><u>OPENS WORK SESSION ON SB 811</u></b>		
005	Bill Taylor	Judiciary Counsel. Reviews bill for Committee. Calls attention to SB 811-A2 amendments which are to resolve conflicts to A-Engrossed SB 811 and must be adopted by the Committee. <b>[Exhibit C]</b>
013	Rep. Shetterly	<b>MOTION: Moves to ADOPT SB 811A-2 amendments dated 05/27/97.</b>
		<b>VOTE: 10-0</b>  <b>EXCUSED: 1 - Rep. Uherbelau</b>
	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
017	Rep. Shetterly	<b>MOTION: Moves SB 811A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 10-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Rep. Uherbelau</b>
	Chair Minnis	<b>The motion CARRIES.</b>  <b>REP. SHETTERLY will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON SB 811</u></b>		
<b><u>OPENS WORK SESSION ON SB 268A</u></b>		
030	Dave Amesbury	Judiciary Counsel. Reviews SB 268 for the Committee. SB 268-A3 amendments were adopted in subcommittee. <b>[Exhibit D]</b>
039	Rep. Shetterly	<b>MOTION: Moves SB 268A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 10-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Rep. Uherbelau</b>
		<b>The motion CARRIES.</b>

	Chair Minnis	REP. SHETTERLY will lead discussion on the floor.
<u>CLOSES WORK SESSION ON SB 268A</u>		
<u>OPENS WORK SESSION ON SB 473</u>		
051	Bill Taylor	Judiciary Counsel. Explains bill to Committee.
056	Rep. Sunseri	<b>MOTION: Moves SB 473 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Rep. Uherbelau, Rep. Prozanski</b>
	Chair Minnis	<b>The motion CARRIES.</b> <b>REP. EIGHMEY will lead discussion on the floor.</b>
<u>CLOSES WORK SESSION ON SB 473</u>		
<u>OPENS WORK SESSION ON SB 270A</u>		
069	Bill Taylor	Judiciary Counsel. Gives background on bill.
070	Rep. Sunseri	<b>MOTION: Moves SB 270A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Rep. Uherbelau, Rep. Prozanski</b>
	Chair Minnis	<b>The motion CARRIES.</b> <b>REP. COURTNEY will lead discussion on the floor.</b>
<u>CLOSES WORK SESSION ON SB 270A</u>		

<b><u>OPENS WORK SESSION ON SB 780A</u></b>		
085	Scott Lumsden	Judiciary Counsel. Reviews bill for Committee. Amended in Criminal subcommittee with -5, -6 and -8 amendments. Explains concept of conceptual amendment: on page 2, line 43 of the bill, delete "of a fee of \$15" and insert "of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment; and".
117	Rep. Shetterly	<b>MOTION: Moves SB 780 to the floor with a DO PASS AS AMENDED by the subcommittee recommendation to include conceptual wording on page 2, line 43: delete "of a fee of \$15" and insert "of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment; and".</b>
	Rep. Beyer	Describe to me what this does?
121	Kevin Campbell	<b>Oregon Association Chiefs of Police.</b> Explains purpose of bill and amendments:  >take the dangerous and noncompliance drivers off the road  >allows officers to impound cars  >populations across the board
162	Chair Minnis	Comments for clarification regarding the expansion to areas of less than 40,000 population. Speaks to the SB 780-A8 amendments.
172	Campbell	This is being used in some communities now.
177	Rep. Uherbelau	What are we voting on?
	Scott Lumsden	Replies. The bill as amended by the -5, -6, -A8 and conceptual amendments.
186	Chair Minnis	Explains conceptual amendments regarding \$15 fee.
		<b>VOTE: 11-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Minnis	<b>The motion CARRIES.</b>  <b>REP. BOWMAN will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON SB 780A</u></b>		

<b><u>OPENS WORK SESSION ON HB 2433</u></b>		
212	Scott Lumsden	Judiciary Counsel. Reviews bill and -4 amendments which are a combination of the -3 and conceptual amendments adopted by the subcommittee on Criminal Law. <b>[Exhibit A]</b>
<b>266</b>	<b>Rep. Bowman</b>	<b>MOTION: Moves HB 2433 to the floor with a DO PASS AS AMENDED recommendation.</b>
270	Rep. Eighmey	Questions for clarification.
	Rep. Shetterly	Replies. This bill only addresses stops. Continues.
281	Rep. Eighmey	Continues questioning for clarification.
	Chair Minnis	Actually the combination of two different bills, HB 2433 and HB 2432.
<b>310</b>		<b>VOTE: 10-1</b> <b>AYE: 10 - Beyer, Bowman, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Wells, Minnis</b> <b>NAY: 1 - Uherbelau</b>
	<b>Chair Minnis</b>	<b>The motion CARRIES.</b> <b>REP. BOWMAN will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON HB 2433</u></b>		
<b><u>OPENS WORK SESSION ON HB 2751</u></b>		
333	Scott Lumsden	Judiciary Counsel. Explains the bill and amendments. Amendments restore the words `registered' and `motor'.
<b>370</b>	<b>Rep. Bowman</b>	<b>MOTION: Moves HB 2757 to the floor with a DO PASS AS AMENDED recommendation.</b>
379	Rep. Beyer	Asks for additional explanation of the bill.
365	Lumsden	Explains the bill.
388	Rep. Beyer	Questions for further clarification.

392	Lumsden	Rental car company will be notified. Continues.
	Rep. Beyer	Continues questioning counsel regarding bill.
421	Chair Minnis	Comments for clarification. The owner is responsible for the ticket.
428	Rep. Beyer	Continues questioning regarding tickets.
440	Rep. Prozanski	This would take away the obligation to give notice to owners.
	Rep. Bowman	Comments to Rep. Beyer's questions.
<b>Tape 40, A</b>		
002	Rep. Prozanski	Reads portion of letter from the City of Portland for clarification to questions.
013	Chair Minnis	Reads from statute.
018		<b>VOTE: 9-2</b> <b>AYE: 9 - Bowman, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells</b> <b>NAY: 2 - Beyer, Minnis</b>
	Chair Minnis	<b>The motion CARRIES.</b> <b>REP. BOWMAN will lead discussion on the floor.</b>
<b><u>CLOSES</u></b> <b><u>WORK</u></b> <b><u>SESSION ON</u></b> <b><u>HB 2751</u></b>		
<b><u>OPENS</u></b> <b><u>WORK</u></b> <b><u>SESSION ON</u></b> <b><u>HB 2920</u></b>		
028	Scott Lumsden	Judiciary Counsel. Explains the bill and amendments. Bill amended in Criminal Law subcommittee.
035	Rep. Prozanski	<b>MOTION: Moves HB 2920 to the floor with a DO PASS AS AMENDED recommendation.</b>
040	Rep. Uherbelau	Questions for clarification regarding proof.
046	Chair Minnis	Replies. You ask them. Continues.
081	Rep. Eighmey	Questions for clarification regarding age.

083	Chair Minnis	Responds.
086	Rep. Eighmey	Continues to question for further clarification.
	Chair Minnis	That is in another section.
112	Rep. Shetterly	Reads from statute for clarification regarding sexually explicit conduct.
<b>120</b>		<b>VOTE: 11-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>
	<b>Chair Minnis</b>	<b>The motion CARRIES.</b>  <b>REPRESENTATIVES MINNIS AND COURTNEY will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON HB 2920</u></b>		
<b><u>OPENS WORK SESSION ON HB 3357</u></b>		
133	Scott Lumsden	Judiciary Counsel. Bill comes from subcommittee on Criminal Law where it was amended by the -1 amendments. Explains bill and amendments.
<b>156</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves HB 3357 to the floor with a DO PASS AS AMENDED recommendation.</b>
161	Rep. Uherbelau	Questions for clarification regarding previous charges.
168	Rep. Shetterly	Comments/questions for further clarification:  >Charged and found guilty or charged but not found guilty.
186	Rep. Sunseri	States he will vote no and gives reasons.
189	<b>Brenda Rocklin</b>	<b>Assistant Attorney General, Oregon Department of Justice.</b> Discusses specific language dealing with prior conviction and prior conduct being used as racketeering predicate. Language intended to do three things; explains and gives examples.
227	Rep. Uherbelau	Questions for clarification - acquitted?
230	Rocklin	Replies.
237	Rep.	Questions witness for further clarification on subject.

	Eighmey	
244	Rocklin	Replies. It isn't double jeopardy in that case.
255	Rep. Eighmey	Comments: It would behoove the police to charge and dismiss in order to establish a pattern.
267	Chair Minnis	Comments for clarification. It is what it is. Continues.
276	Rocklin	The state would be required to prove conduct beyond a reasonable doubt. Continues.
331	Rep. Bowman	Questions witness regarding persons already serving jail sentences.
343	Rocklin	RICO isn't solely directed to organized crime. Gives examples.
377	Rep. Beyer	Questions page 3, line 14 of the bill.
382	Rocklin	There was specific testimony on that from the State Police.
425	Rep. Eighmey	Questions page 1 line 27 of the -1 amendments.
<b>Tape 39, B</b>		
006	Chair Minnis	Replies. You know that doesn't happen. Continues.
014	Rep. Eighmey	There has to be a cutoff. There is a reasonable line.
	Rep. Shetterly	There still needs to be a nexus. Continues.
033	Rep. Bowman	States concerns regarding "gang members" being on police lists just because of someone's observation. Continues.
042	Chair Minnis	Replies. Mere fact that your name appears on the list - -
045	Rep. Bowman	I don't see the difference.
049	Chair Minnis	Merely saying it's so, doesn't mean it's true. Continues.
063		<b>VOTE: 8-3</b>  <b>AYE: 8 - Beyer, Eighmey, Prozanski, Shetterly, Starr, Uherbelau, Wells, Minnis</b>  <b>NAY: 3 - Bowman, Courtney, Sunseri</b>
	Chair Minnis	<b>The motion CARRIES.</b>  <b>REP. MINNIS will lead discussion on the floor.</b>
<b><u>CLOSES WORK</u></b>		



<b>SESSION ON HB 3357</b>
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073	Chair Minnis	Adjourns meeting at 8:40 a.m.
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Transcribed By, Reviewed By,

Julie Clemente,

for Gina Cross, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - Proposed HB 2433-4 Amendments - Staff - 5 pgs**

**B - Proposed HB 2751-2 Amendments -Staff - 1 pg**

**C - Proposed SB 811-A2 Amendments - Staff - 1 pg**

**D - Proposed SB 268-A3 Amendments - Staff - 1 pg**