

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**June 2, 1997 Hearing Room 357**

**1:00 P.M. Tapes 96 - 97**

**MEMBERS PRESENT:**

**Rep. Lane Shetterly, Chair**

**Rep. Judith Uherbelau, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Jo Ann Bowman**

**Rep. George Eighmey**

**Rep. Floyd Prozanski**

**Rep. Charles Starr**

**Rep. Larry Wells**

**MEMBER EXCUSED:**

**STAFF PRESENT:**

**Dave Amesbury, Counsel**

**Gina Cross, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 266A Work Session**

**SB 601A 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 96, A</b>		
004	Chair Shetterly	Opens the meeting at 1:14 p.m.

<b>SB 266A- WORK SESSION</b>		
005	Chair Shetterly	Opens the work session on SB 266A.
012	Richard Lane	Oregon State Bar >Submits testimony and testifies in support of SB 266A ( <b>EXHIBIT A</b> ). >This bill will allow a defendant to give their own notice of a potential claim against someone subject to the tort claims act.
021	Chair Shetterly	Could you give us an example?
022	Lane	Uses an example of an accident with someone also suing the Department of Motor Vehicles as well as another driver.
036	Timothy Wood	Department of Justice >Testifies in opposition to SB 266A. >We want a narrow version of bill. >We are against the retroactivity of the original bill. >This bill means more claims against and losses for the state.
080	Rep. Uherbelau	Why do you think this is bad public policy? Is the state going in ahead of time and try to resolve the claim without knowing what the state's contribution may be?
091	Wood	Yes.
094	Rep. Beyer	This is a Senate bill?
094	Wood	Yes.
095	Rep. Beyer	Did you make these claims in the Senate? How can you say there is a fiscal impact when my information states there is no impact?
097	Wood	We provided the same testimony on the Senate side.
100	Rep. Beyer	There should have been a fiscal impact prepared by the agency.
102	Wood	If the bill was to be retroactive, there would have been a major impact. We have indicated someone from risk management look at it. There will be more claims as a result of this legislation, but there is no way to quantify that.
113	Chair Shetterly	There are two types of fiscal impact: claims investigation and claims settlement. The greater is the second.
124	Chair Shetterly	Refers to a letter from Dave Hendricx (Exhibit E 5/28/97) which talks about the -1, -2, and -A3 amendments.

134	Lane	We believe the -1 amendments reflect what we wanted on the Senate side. The -2 amendments go in a different direction than we want to go.
141	Wood	The -1 amendments may be SB 266A.
143	Chair Shetterly, Wood, Lane	Discuss the amendments.
157	Chair Shetterly	We have the -A3 amendments and the bill before us.
164	Rep. Bowman	I am willing to move the bill, but I am not willing to move the -A3 amendments.
<b>166</b>	<b>Rep. Beyer</b>	<b>MOTION: Moves to ADOPT SB 266A-3 amendments dated 4/30/97.</b>
168	Chair Shetterly	Explains the amendments and when they were heard.
185	Rep. Bowman	I didn't hear a good reason to move the -A3 amendments.
190	Rep. Wells	I will support the -A3 amendments.
199	Rep. Uherbelau	I think the agreement was that thirty percent would be as high as they would go. The compromise was twenty-five percent.
214	Chair Shetterly	The testimony is susceptible to being heard a couple of different ways. Is there any more discussion?
222		<b>VOTE: 4-3-1</b> <b>AYE: 4 - Beyer, Shetterly, Starr, Wells</b> <b>NAY: 3 - Bowman, Prozanski, Uherbelau</b> <b>EXCUSED: 1 - Eighmey</b>
229	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>
232	<b>Rep. Beyer</b>	<b>MOTION: Moves HB 266A to the full committee with a DO PASS AS AMENDED recommendation.</b>
237	Rep. Uherbelau	I hate to see amendments to a bill which I support strongly as it is written.
250	Rep. Bowman	It is unfortunate that I will be in opposition to a bill that I think is a good bill which is messed up by the amendments.
258	Chair Shetterly	Recesses the meeting at 1:30 p.m.
261	Chair Shetterly	Reopens the meeting at 1:32 p.m.
		<b>VOTE: 5-3-1</b>

265		<p><b>AYE: 5 - Beyer, Shetterly, Starr, Wells, Minnis</b></p> <p><b>NAY: 3 - Bowman, Prozanski, Uherbelau</b></p> <p><b>EXCUSED: 1 - Eighmey</b></p>
270	Chair Shetterly	<p><b>The motion CARRIES.</b></p> <p><b>REP. SHETTERLY will lead discussion on the floor.</b></p>
273	Chair Shetterly	Closes the work session on SB 266A.
<b><u>SB 601A - PUBLIC HEARING</u></b>		
275	Chair Shetterly	Opens the public hearing on SB 601A.
286	Chair Shetterly	Does the committee have the -A7 amendments ( <b>EXHIBIT B</b> )?
290	Mike McCallum	<p>Oregon Restaurant Association (ORA)</p> <p>&gt;Submits testimony and testifies in support of SB 601A (<b>EXHIBIT C</b>).</p> <p>&gt;A party who sues a liquor licensee, must give notice within six months of an injury.</p> <p>&gt;This will not give protection for wrongful acts.</p>
340	McCallum	<p>Continues testimony.</p> <p>&gt;This will not cause any additional litigation.</p> <p>&gt;Refers to amendments which the ORA proposes</p>
363	Chair Shetterly	Those are the -A7 amendments?
363	McCallum	Yes. These amendments require liability insurance of \$300,000 for every licensee.
376	Rep. Prozanski	Could you tell us about the standard level of insurance required?
382	McCallum	You have to have the insurance and you have to keep the insurance.
385	Chair Shetterly	Originally you just had to show proof when you started your license, but now you have to have it when you renew the license?
388	McCallum	No. People were grandfathered in if they renewed their license. With this, you have to maintain the insurance coverage.
		This will put everyone on equal footing. Everyone who was

391	Rep. Prozanski	grandfathered in two years ago, who is coming up for renewal, will have to show proof of this coverage.
396	McCallum	That is what the -A7 amendments would do.
398	Chair Shetterly	Where did the \$300,000 come from? Is it enough?
404	McCallum	That number came from an Oregon Liquor Control Commission task force. If we had a higher number, there would be a problem with availability.
425	Rep. Prozanski	In the two years that we have had this, it may be premature to say whether or not the amount is sufficient to cover claims or assertions?
431	McCallum	It is too soon, but it is better than nothing.
<b>Tape 97, A</b>		
001	Chair Shetterly	We are having the other amendments copied? I haven't seen them.
004	Rep. Uherbelau	I understand that -A2, -A3, and -A4 amendments are irrelevant.
006	Mic Alexander	Oregon Trial Lawyers Association >Submits testimony and testifies in opposition to SB 601A <b>(EXHIBIT D)</b> . >This is an unnecessary extension of the law. >Injured people will lose their right of any recovery against a tavern owner who broke an existing Oregon statute. >This will increase litigation. >This will result in numerous notices being given. >You need to include the -A6 amendments.
063	Rep. Prozanski	The individuals you would be representing would be the innocent victims? By the time you get through the discovery process, you may not even know if there was an establishment involved?
072	Alexander	Yes. Finding out where the drunk driver consumed alcohol is difficult. Drunk drivers may go to several different places before running into someone.
094	Chair Shetterly	Have you seen the -A4 and the -A6 amendments? Those are the discovery amendments.
095	Alexander	I have seen the -A6 amendments.
098	Rep. Uherbelau	You don't usually file a lawsuit the day after someone is injured?
105	Alexander	Not in my office.

106	Rep. Uherbelau	After you file a lawsuit, the other side has thirty days respond?
107	Alexander	Yes.
107	Rep. Uherbelau	After they respond, depositions are set up?
110	Alexander	There is another step. After there is response, there are legal motions, requests for legal documents, and then depositions. If the depositions are scheduled within six months, that is unusual.
114	Rep. Uherbelau	It would be unusual to find out who served the drunk driver within six months of the actual accident date?
117	Alexander	It would be very unusual.
119	Rep. Uherbelau	Referring to the written testimony, was it also given on the Senate side?
123	Alexander	Yes. There are some provisions in the bill about tolling the period for giving notice, but they are inadequate.
132	Chair Shetterly	That is why I was wondering about the -A4 and -A6 amendments.
134	Judy Hudson	Oregon Trial Lawyers Association >Testifies in opposition to SB 601A. >If the driver is arrested at the scene and there is criminal prosecution, we may not have access to the needed information until the prosecution is complete.
151	Alexander	The -A6 amendments are more in compliance with the law today. I would add them to the existing language.
169	Hudson	There is no indication as to who is responsible.
175	Rep. Uherbelau	The amendments would keep the same time frame, except that the injured party would have one year after the discovery of another person being at fault.
185	Chair Shetterly	Did the -A2 amendments come from you?
186	Rep. Uherbelau	They are gone.
188	committee	Discussion about the amendments. We are just looking at the -A4, -A5, -A6, and -A7 amendments.
198	Chair Shetterly	We will not be taking any action on this today.
		Oregon State Bar >Submits testimony and testifies in opposition to SB 601A <b>(EXHIBIT E).</b>

209	Richard Lane	>Referring to the -A6 amendments, they adequately reflect what the court has done. >This should incorporate the discovery rule. >What happens if the drunk driver dies?
255	Chair Shetterly	Closes the public hearing on SB 601A.
264	Rep. Shetterly	<b>MOTION: Moves to SUSPEND the rules for the purpose of Allowing Rep. Eighmeyer to record a vote on SB 266A..</b>
266		<b>VOTE: 8-0</b>
269	Chair Shetterly	<b>Hearing no objection, declares the motion CARRIED.</b>
271	Chair Shetterly	Explains what the committee adopted regarding SB 266A.
272	Rep. Eighmeyer	<b>VOTES "Nay."</b>
		<b>VOTE: 5-4</b> <b>AYE: 5 - Beyer, Starr, Wells, Shetterly, Minnis</b> <b>NAY: 4 - Bowman, Eighmeyer, Prozanski, Uherbelau</b>
273	Chair Shetterly	<b>The motion Carries.</b>
273	Chair Shetterly	Adjourns the meeting at 2:02 p.m.

Submitted By, Reviewed By,

Sarah Watsons for Gina Cross, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - SB 266, written testimony, Richard Lane, 1 p.**

**B - SB 601,-A7 proposed amendments (dated 6/2/97), staff, 6 pp.**

**C - SB 601, written testimony, Mike McCallum, 6 pp.**

**D - SB 601, written materials, Mic Alexander, 3 pp.**

**E - SB 601, written testimony, Richard Lane, 2 pp.**

**F - SB 601, -A2, -A3, -A4, -A5, -A6, -A7 proposed amendments (dated 5/28/97, 6/2/97), staff, 19 pp.**