

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**June 4, 1997 Hearing Room 357**

**1:00 P.M. Tapes 98 - 99**

**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:**

**Bill Taylor, Counsel**

**Dave Amesbury, Counsel**

**Gina Cross, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 730A Work Session**

**SB 886A Work Session**

**HB 3730 Public Hearing and Possible Work Session**

**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
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<b>Tape 98, A</b>		
004	Chair Shetterly	opens the meeting at 1:20pm
<b><u>SB 886A - WORK SESSION</u></b>		
008	Chair Shetterly	opens the work session on SB 886A.
010	Sen. Kate Brown	State Senator, District 7 refers to -A2 amendments
<b>025</b>	<b>Rep. Eighmey</b>	<b>MOTION: Moves to ADOPT SB 886-A2 amendments.</b>
028	Shetterly	no discussion; no objection
<b>030</b>	<b>Rep. Eighmey</b>	<b>MOTION: Moves SB 886 to the full committee with a DO PASS AS AMENDED recommendation.</b>
032	Shetterly	no discussion; no objection Rep. Uherbelau will carry
<b><u>SB 730A - WORK SESSION</u></b>		
036	Chair Shetterly	Opens the work session on SB 730A
038	David Amesbury	Committee Counsel >explains the bill -A2 amendments ( <b>EXHIBIT A</b> )
049	Jody Fischer	Oregon Rehabilitation Association >explains the -A2 amendments >extension of tort liability
074	Chair Shetterly	Refers to Sub E in the bill, beginning at line 20
076	Fischer	there are about 20 homes the amendment was put in for tort revisions I have no new insurance information
090	Chair Shetterly	there was also discussion about a possible sunset in the amendments is there any discussion?
<b>099</b>	<b>Rep. Wells</b>	<b>MOTION: Moves to ADOPT SB 730-A2 amendments dated 6/2/97.</b>
101	Shetterly	I will accept the motion and keep it on the table, while we discuss this
104	Committee	discussion about the requirements

118	Chair Shetterly	with Fairview shutting down, this will be inapplicable soon
122	Rep. Bowman	I would be interested in the sunset there are important questions which need to be discussed we need to make decisions about limiting the tort
135	Chair Shetterly	I appreciate that
140	Shetterly	no discussion on the motion; no objection
146	Rep. Bowman	I would like to have a conceptual amendment to have a sunset clause
150	Rep. Starr	this is an issue that deserves revisiting I don't know if we will be able to get any response in the 2 years I would like to see it sunset in 4 years
161	Chair Shetterly	I tend to agree with that, if we give it two years it only has the next calendar year how about amending it to four years
164	Rep. Bowman	I would be happy to do that, but I would like someone to come back in 2 years to address the childcare issue
172	Chair Shetterly	you can make that an issue when we come back
176	Rep. Starr	has the budget that funds this been passed
180	Rep. Uherbelau	this isn't a budgeted item no one is automatically going to bring this up next session
192	Rep. Bowman	did the child care division tell you when this information would be available
194	Fischer	Alan Tresidder may have that information
199	Alan Tresidder	Alliance of Children's Programs >I don't know what the record has been; there have been two major tort reforms since then >I am not aware of any large judgments in this area
218	Rep. Beyer	why is subsection 7 in this statute?
223	Vice-Chair Uherbelau	these are definition sections
233	Tresidder	if the sunset concept is applied, perhaps you should apply that to the entire tort claims act
		the conceptual amendment proposed by Rep. Bowman is to sunset this on July 1, 2001

238	Uherbelau	no discussion; no objection
<b>250</b>	<b>Rep. Wells</b>	<b>MOTION: Moves SB 730 to the full committee with a BE ADOPTED AS AMENDED recommendation.</b>
253	Uherbelau	no discussion; no objection Rep. Wells will carry
<b><u>HB 3730 - PUBLIC HEARING</u></b>		
262	Uherbelau	open public hearing on HB 3730
270	Frank Brawner	Oregon Bankers Association ( <b>EXHIBIT B</b> )
305	Gina Johnnie	Oregon Bankers Association, testifies in support of HB 3730. explains EXHIBIT B
365	Johnnie	continues explaining testimony
407	Rep. Eighmey	question about titles of motor homes
424	Johnnie	the buyer never received the title
433	Brawner	we don't think that the buyer knew the vehicle was on consignment
441	Rep. Eighmey	summarizes the situation
<b>Tape 99, A</b>		
008	Johnnie	they did pay for the collateral
010	Rep. Eighmey	I like this court decision
012	Brawner	if this case stands, this will dampen the availability of some credit
025	Rep. Prozanski	my concern is: where everyone falls in this situation I'd like to see us move into work session at some point
035	Vice-Chair Uherbelau	there are still some questions
037	Rep. Bowman	how does the change we are making affect the court decision
041	Johnnie	what it means is that there is absolute consistency "seller" can't be defined in two different ways
045	Rep. Prozanski	the court didn't extend the definition of "seller" across the board
047	Brawner	what about the uniformity of the Uniform Act
051	Rep. Bowman	this in not the first bill I have seen this session that has attempted to change a court decision I am not sure I should be voting to change a decision that has come down from a court

063	Brawner	HB 3730 will have nothing to do with the Schultz case
075	Rep. Uherbelau	this is the UCC, did you do a search to see if this decision has been heard in any other jurisdiction
077	Johnnie	the best way to look at this is to look at the dissent written by Justice Graber
084	Rep. Wells	clarifies the situation who is responsible for the money under current law?
101	Brawner	the problem with this case is that the collateral disappeared even though we were listed on the title, it did not mean anything
105	Rep. Wells	what does the language do
106	Brawner	it makes it consistent with what we always thought the UCC said
109	Rep. Eighmey	you are asking what does the bank do the bank can sue for the money or they can get the collateral
116	Rep. Wells	I have a problem with this, because the collateral now belongs to innocent people
119	Brawner	what would you have the lender do
120	Rep. Wells	I think the responsibility is with the party that defaulted on the loan, not the new owners of the property
121	Brawner	we made the loan based upon the collateral
125	Rep. Wells	if I was the new buyer I would be really unhappy
128	Brawner	I suggest if you are the new owner that you ask for the title before you rendered the cash
130	Rep. Wells	gives example of used car
134	Rep. Prozanski	gives another example (stolen vehicle example)
142	Chair Shetterly	can a thief ever pass good title
144	Rep. Prozanski	if someone buys in good faith and finds out that the seller did not have the right to sell it
148	Chair Shetterly	this is a classic case; someone is going to lose
153	Rep. Beyer	refers to HB 2300 in the Commerce Committee which is like HB 3730
167	Brawner	the bank had possession of the title, the loan was a secured loan
179	Rep. Beyer	I would never pay cash for an automobile and then walk out without the title
187	Rep. Eighmey	what about sending the title later
		it seems to me that if we change this, we will be different that

191	Rep. Uherbelau	the other UCCs I would like to wait and see what the supreme court does
206	Johnnie	this is a Supreme Court decision every UCC has had this before them
215	Chair Shetterly	refers to the decision pg 15
219	Bill Taylor	discusses consignment
234	Johnnie	I think it makes it the same for consigned sellers; the person consigning is the seller
242	Johnnie	discusses security interests
246	Bill Taylor	discusses Supreme Court decision
250	Johnnie	discusses secured lender
262	Rep. Eighmey	gives example of Smith's Home Furnishing store in Portland
288	Brawner	that happened under the existing law there is a great similarity between holding the contracts, all you need to prove that you have ownership is a title
316	Pam Pipher	Oregon Credit Union League EXHIBIT C unsecured loans will be affected by the decision
331	Rep. Beyer	would the case be different if it would have been a dealer who sold the car
343	Johnnie	the security interest has to be decided
350	Rep. Uherbelau	can you think of anytime in the future this would occur, unless you were going to get into the consignment aspect
358	Brawner	no consignments are no longer rare
373	Rep. Eighmey	you have made some good arguments why isn't the Bar Association here
382	Brawner	they have a copy of the bill, I gave it to them
387	Rep. Eighmey	this is a really new bill, I would like to contact the Bar just to get their input
393	Rep. Prozanski	we need to look at some type of protection for buyers buying on consignment
404	Brawner	we are agreeable to disclosure of that kind
427	Brawner	we will do everything we can to get people notified on this bill
436	Chair Shetterly	adjourns meeting at 2:10pm

Submitted By, Reviewed By,  
Gina Cross, David J. Amesbury,  
Administrative Support Counsel

Transcribed By,  
Andrea Terry

Administrative Support

**EXHIBIT SUMMARY**

**A - -A2 amendments to SB 730 - introduced by Staff - 1 page**

**B - Testimony of Kenneth Sherman, Jr. - introduced by F. Brawner - 33 pages**

**C - Testimony in support of HB 3730 - introduced by P. Pifer - 1 page**