

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**February 14, 1997 Hearing Room 357**

**1:00 P.M. Tapes 19 - 21**

**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**

**STAFF PRESENT:**

**Bill Taylor, Counsel**

**Lisa Fritz, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 2044 - Work Session**

**HB 2045 - Work Session**

**HB 2386 - Public Hearing**

**HB 2416 - Public Hearing**

**HB 2299 - Public Hearing**

**HB 2308 - 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.**

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<u>HB 2386 - OPENS PUBLIC HEARING</u>		
149	Sen. Dwyer	District 21 Testifies in favor of HB 2386. Cites personal experience at Dry Cleaners to display his position.
190	Rep. Eighmey	I appreciate Sen. Dwyer's being here. I'm glad this bill is being heard and being taken seriously.
207	Rep. Uherbelau	Commends Steve Mitchell for traveling 250 miles to testify on HB 2386.
211	Steve Mitchell	Owner of Archies Cleaners in Medford, Oregon Submits written testimony in opposition of HB 2386 ( <b>EXHIBIT C</b> ).
260	Mitchell	Presents different articles of clothing and prices for each. ( <b>Parts of presentation fade in and out, as Mitchell moves toward and away from microphone. Some parts are completely blank</b> ). Explains the reasoning behind his pricing system.
328	Rep. Uherbelau	If a man came in with a silk, long-sleeved, white shirt, would he pay the same as a woman?
333	Mitchell	Yes. There is an up-charge for any shirt that is not cotton or linen.
346	Rep. Uherbelau	I want to make this perfectly clear, if a man and woman bring in comparable shirts, the will pay the same?
356	Mitchell	Exactly the same, and this is nationwide.
366	Rep. Bowman	Is there a difference between you dry-cleaning a pair of slacks that a female owns and a pair that a male owns?
370	Mitchell	No. Slacks at our plant are \$4 for a lady and \$4 for a man. If they have pleats, it's 25 cents extra. If they're lined, it's 50 cents extra.
384	Rep. Bowman	If they're lined, everyone pays the 50 cents extra?
388	Mitchell	Absolutely.
392	Rep. Bowman	Tell me how much it would cost if I were to bring a plain white, cotton shirt into your establishment and how much it would cost for a man to come in with a white, cotton shirt.
397	Mitchell	Dry cleaned or laundered?
400	Rep. Bowman	Dry Cleaned.
405	Mitchell	They would both pay the same with an up-charge for the white. Laundered is different, a different price but the same.
407	Rep.	Would you please explain that?

	Bowman	
410	Mitchell	Responds and explains that most of it has to do with how the shirt fits on the press.
<b>TAPE 20, A</b>		
026	Steve Young	Oregon Dry Cleaners Association and Dry Cleaners owner Explains that his facilities allow him to do approximately 400 laundered men's shirts a day, as opposed to about eight a day for women's, small men's, or very large men's shirts, because of the way the shirts fit on the press.
047	Rep. Prozanski	From what you have said so far, it seems you raise price based on services done, not gender. If so, why do you have a problem with this bill? If you can justify the cost, it seems to me the bill allows you to do that, but you have to treat men and women equally if they bring in the same garment.
058	Young	Why should I have to defend myself in court against a \$1000 penalty? I'm going to have to go to court if someone disagrees with the pricing, and I can be there a needless number of times. Why do we need a law when we already provide fair pricing? It's all a matter of cost.
075	Rep. Prozanski	I see that this is when a customer comes into the store, if you have itemized pricing displayed for mark-ups, that would be your justification, and your customer can decide whether or not to do business with you.
084	Rep. Uherbelau	I have not seen a price list when in a dry cleaners. It's a rare occasion. Perhaps if you had a list up that showed the differentials, a person could make an informed decision.
090	Young	My price list is 14 pages long, as it's computerized. But if you want to know how much it costs and why, ask. It's labor. That's how we price our things. It's not discrimination in any nature.
102	Rep. Eighmey	I'm sure your correct in saying that most dry cleaners have a fair reason for pricing the way they do, but I know from personal experience that the \$1.10 I pay per laundered shirt is upped when my daughter takes the same shirt.
115	Young	Then I think you would have basis for a lawsuit in any court in the country. But that's already in Oregon's law.
122	Mitchell	I think you should talk to your dry cleaners and ask because it could have been a simple mistake by a new clerk. My problem with this is that this has all gone to the media, and we are being named the "bad guys."
147	Rep. Uherbelau	I see this bill as a consumer protection bill. What would you think of a bill that made you put the price list out for everyone to see that you can't deviate from?
152	Mitchell	What you are asking me would not take a bill. Just tell us what you want, and we'll put the word out. You don't have to go through the trouble of spending taxpayer's money to pass another bill.
	Rep.	You are doing a good job, but I have been in dry cleaners where you

167	Uherbelau	cannot get information. We like to think all of you follow a certain way, but you don't.
173	Young	The consumer should take some responsibility for asking about and finding out the price they will be paying.
182	Rep. Eighmey	This bill is not directed at the dry cleaning industry in and of itself. This is not an anti-dry cleaning bill. There are many, many instances where gender discrimination exists in our economy. Gives example of personal experience car shopping with his ex-wife and comments that he was always quoted a lower price than she was.
227	Mitchell	Comments on how badly the media has affected his business due to the impact of HB 2386.
239	Rep. Prozanski	You are doing what you should be doing, and your prices are fairly and accurately stated. But what we've heard from other people is that you may not be the norm in any industry based on the experiences that some people have had. Please don't take this as a personal attack on you. Thank you for coming as far as you have to demonstrate your pricing and reasons for the pricing. As I see it, you are protected under this bill.
264	Mitchell	I think my pricing system is the norm across the nation.
268	Rep. Wells	So far I haven't been convinced that I should support this bill. It's seems to me that being a man, I would be supporting an increase in my costs because I'm sure you're not going to lower the others.
278	Rep. Piercy	District 39 Helps with the organization of the Women's Health and Wellness alliance. Testifies in support of HB 2386. Cites personal experiences at dry cleaners to support position. Comments that the person behind the counter does have a responsibility to tell the customer what they are paying for and to provide them with the information that they need.
323	Sen. Brown	District 7 Comments on personal experiences with dry cleaners and hair salons. Shows cotton shirts that she brought to the cleaners and was charged more than the quoted "men's price."
<b>TAPE 19, B</b>		
016	Rep. Corcoran	District 44 Submits written testimony in support of HB 2386 ( <b>EXHIBIT D</b> ).
061	June Abbot	Dry Cleaners Owner (Keizer, Oregon) Testifies in opposition of HB 2386. States that she has never known gender pricing in the industry and that every charge is labor based. Gives an example involving the shirt she is wearing. Computers price the articles of clothing, and they don't know whether the clothes belong to a male or female. However, the person behind the counter could make a wrong decision when pricing.
095	Rep. Prozanski	If I came in with the shirt your wearing you'd charge me the same price you would charge a woman?
102	Abbot	That's correct. I don't care who you are. Even if this were a child's shirt, it would be the same price. Maybe I'm an exception, but I've never seen

		gender as a problem.
111	Rep. Bowman	Do your customers know before they walk out the door how much they're are paying and why?
116	Abbot	Yes they do.
117	Rep. Bowman	Is there a price list in your establishment?
118	Abbot	It's on top of the counter, and they're are free to read it whenever they want to.
120	Earl Eckstrom	Dry Cleaners Owner (owns 11 stores) Testifies in opposition of HB 2386. I have no doubt that price discrimination has existed, but it is decreasing through publicity, political pressure, legislation being proposed, etc. Those who have gender priced are disappearing rapidly or changing. Explains how his cleaners are run and that pricing quotes are easily available. I don't think legislation is going to be effective; I don't think it's needed. It's just going to increase the amount of potential litigation in our society that is already too much. This is a minor problem and quickly disappearing.
163	Rep. Bowman	I would take exception to the fact that you think this is a minor problem. If you're on the other end and know you're are paying more for a service due to discrimination, discrimination is never a minor problem.
171	Eckstrom	I'm not speaking as to the whole bill, only as it relates to dry cleaning. This problem is disappearing. If a person comes into a cleaners, asks questions of the dry cleaner, and is not satisfied with the answer, they have every option to walk away and patronize another dry cleaner.
179	Rep. Bowman	Discusses personal experiences with dry cleaning as they relate to HB 2386. Law does not change how things are, but it helps those who have faced discrimination to redress, to fight it and make sure it does not happen again.
212	Rep. Eighmey	Did I hear correctly that the problem did exist but has now decreased. I assume you meant minor in number not minor in importance?
225	Eckstrom	More than 50 percent of the dry cleaners in the country have specifically looked over their price structure to make sure there is no gender discrimination. There's just too much written about it, too much publicity within the industry, too much pressure on us from customers and other source to not have responded that way. Now, not all have responded, but I believe more than 50 percent have, and it's increasing constantly.
240	Rep. Eighmey	Would you have to admit that since all these people changed their pricing, because of this pressure, legislation would force the rest that have not changed to comply?
245	Eckstrom	A consumer does not have to patronize a business that does not seem fair. I don't think we've had a discriminatory price for 20 or 30 years. I think this problem would be better addressed by the individual who feels they are being treated unfairly than by adding another source of litigation into our social structure.
266	Rep.	I did hear you correctly though: it did exist and does exist?

	Eighmey	
269	Eckstrom	I did exist; it does exist. I'm sure it does.
271	Rep. Uherbelau	We don't have time to run from business to business to compare fairness. You have admitted there is discrimination. It would be better if we didn't have to do things through litigation, but we don't have the best possible world. There is a possibility that language could be added to the bill that states you presumably did not discriminate if you have a price list displayed for everyone to see. The burden would become must heavier on the person claiming you discriminated and would discourage many people from presenting you with frivolous law suits. What do you think about that possibility?
302	Eckstrom	I understand what you've said, and it would reduce my opposition to the bill significantly. I am not opposed to the context of the bill, but it opens the door to a lot of problems for small businesses they can't handle.
361	Laura Culberson	Oregon State Public Interest Research Group Submits written testimony in favor of HB 2386 ( <b>EXHIBIT E</b> ).
420	Rep. Uherbelau	Do you have details relating to size, sleeve length, etc. from the Washington study you cited.
422	Culberson	No I don't, but I can obtain those for you.
	<b>TAPE 20, B</b>	
029	Jennifer Webber	Executive Director of the Oregon Commission for Women Submits written testimony in support of HB 2386 ( <b>EXHIBIT F</b> ).
063	Marcia Latta	Women's Rights Coalition Submits written testimony in favor of HB 2386 ( <b>EXHIBIT G</b> ).
079	Sandra Bishop	League of Women Voters of Oregon Submits written testimony in favor of HB 2386 ( <b>EXHIBIT H</b> ).
135	Chair Shetterly	Closes Public Hearing on HB 2386.
137	Rep. Uherbelau	Can we ask Legislative Counsel to play around with some presumptuous language with regard to display of price lists?
141	Chair Shetterly	I'd be willing to do that. I'm also curious to see how much of this is already in existing statute.
	<b>HB 2044 - OPENS WORK SESSION</b>	

147	Bill Taylor	Explains bill and its relation to statutes of other states ( <b>EXHIBIT D</b> ).
158	Rep. Eighmey	We should have a universal exemption provision similar to the state of Washington. That is a sort of all encompassing solution. The way we have reworded this, it complies with our form.
178	Taylor	Explains how HB 2044 would be changed to fit into the form of Oregon and how it would read.
200	Rep. Prozanski	Staff may want to make sure that the Washington's language would compliment ours where it says "wanton or willful misconduct."
205	Taylor	We will do that.
220	Chair Shetterly	We would be looking at lines 1-16 as the currently are in statute, and then deleting the rest of the statute entirely, replacing it with that one paragraph from the Washington statute?
224	Rep. Eighmey	Correct.
228	Rep. Uherbelau	I would suggest that we add the words "in good faith."
240	Rep. Eighmey	To present the flip side, how would you suggest that someone did it in "bad faith?"
245	Rep. Uherbelau	"Good faith" is not an unknown term. We use it in many statutes. We're really extending the immunity, and I think "good faith" is something we might want to think about.
256	Chair Shetterly	The definition of "good faith" is already defined in another part of the statute.
268	Rep. Eighmey	Where should "good faith" be placed?
269	Chair Shetterly	Line nine. We've just taken a substantial turn on this bill. Does anyone want to comment, so that we may be aware of any concerns you may have before we go forward?
278	Dave Barros	Oregon Veterinarians I think we're okay. There are no concerns.
286	Jeff Watkins	Oregon Trial Lawyer's Association It sounds like it's okay, but we may want to reserve judgment on it.
291	Chair Shetterly	Closes Work Session on HB 2044.
	<b>HB 2045 - OPENS WORK SESSION</b>	



312	Taylor	Discusses the bill and -1 through -4 amendments to the bill ( <b>EXHIBIT J</b> ).
353	Rep. Uherbelau	Did they mention at all why they used "may" instead of "shall?" In child abuse "shall" is used.
341	Dave Barros	Oregon Veterinarians The association felt very strongly that they did not want to have an obligation here. Some day maybe, but at the first step, they would prefer not have an absolute mandated requirement that they "shall" do this.
380	Rep. Beyer	Where did the new language come from in the -4 amendments? Who proposed that? It seems like it's totally different and doesn't fit with the intent of the bill.
386	Taylor	This amendment came from the Human Society and Veterinarians as an addition to the bill.
396	Rep. Eighmey	In supporting this -4 amendment, it should be included now when we are looking at this overall issue. There is a connection with the other amendments and bill to a certain extent. I also agree with the fact that "may" is better language here.
<b>TAPE 21, A</b>		
005	Chair Shetterly	Could Legislative Counsel still codify this as a separate statute?
007	Taylor	That's correct.
012	Rep. Bowman	I'm having problems with -4 amendments as well. It seems that on one hand we are trying to protect veterinarians when they treat an animal in a life or death situation, so they would not be unduly penalized. With the -4 amendments, it seems like they want to have it both ways: to be protected but they don't have to report to somebody what they did and why that decision was made.
029	Rep. Eighmey	The -4 amendments say that the when an animal is brought in and treated and found to be abused, the veterinarian is afraid to report it because he/she feels some penalty will be brought upon him/her for presenting that information. The -4 amendments give them the right to report abuse without the worry.
046	Rep. Prozanski	If a veterinarian does have to operate under such a situation, I assume they keep records on what they've done. In case police need to investigate, they will be able to obtain needed information.
053	Barros	That's correct. Any time a veterinarian sees an animal, regardless of circumstances, they are required to keep records of treatment.
058	Rep. Beyer	I'm still concerned about the -4 amendments. Did you come up with this, or did you just agree with the Humane Society that it was okay?
061	Barros	Explains how the -4 amendments came about. We agree with the content of the -4 amendments, but they are not critical to us. We will support the bill

		without them.
076	Chair Shetterly	Sub 4 under section 2 -- can we delete "completely" before immune there? I think "immune" means 100 percent without the "completely."
090	Rep. Wells	Did we decide where the -4 would be included in the statute.
094	Taylor	Legislative Counsel will probably use their own discretion as to where it should go.
109	Rep. Beyer	I'm not comfortable with sticking the -4 amendments in the bill without a little background. It just seems as if it doesn't fit.
117	Taylor	This will be a stand alone provision.
120	Rep. Beyer	I just have a real problem sticking the -4 amendments in this bill without having a feel for where it will go and what's already there.
125	Chair Shetterly	I hate to push forward with Rep. Beyer's concerns. We can send it back to Legislative Counsel one more time.
131	Rep. Beyer	You can move this bill. I hate to hold things up just because we're not unanimous. I urge you to move it forward
137	Rep. Eighmey	I appreciate Rep. Beyer's perspective on this. Comments on safeguards through the system that can bring the bill back if someone is not satisfied.
159	Rep. Eighmey	<b>MOTION: Moves to ADOPT HB 2045-1 amendments dated 01/28/97.</b>
		<b>MOTION: Moves to ADOPT HB 2045-2 amendments dated 1/28/97 and that the measure be FURTHER AMENDED on page 1, line 5 of the -2 amendments, by deleting "completely".</b>
		<b>MOTION: Moves to ADOPT HB 2045-3 amendments dated 1/28/97.</b>
		<b>MOTION: Moves to ADOPT HB 2045-4 amendments dated 2/5/97.</b>
		<b>VOTE: 7-1</b>  <b>AYE: 7 - Rep. Bowman, Rep. Eighmey, Rep. Prozanski, Rep. Starr, Rep. Uherbelau, Rep. Wells, Rep. Shetterly</b>  <b>NAY: 1 - Rep. R. Beyer</b>
		<b>MOTION: Moves HB 2045 to the full committee with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-1</b>  <b>AYE: 7 - Rep. Bowman, Rep. Eighmey, Rep. Prozanski, Rep. Starr, Rep. Uherbelau, Rep. Wells, Rep. Shetterly</b>  <b>NAY: 1 - Rep. R. Beyer</b>
170	Chair Shetterly	<b>The motion Carries.</b>  <b>REP. WELLS will lead discussion on the floor.</b>

179	Chair Shetterly	Adjourns at 3:05 p.m.
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Submitted by, Reviewed by,

Lisa Fritz, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - HB 2416, written testimony, Jim Markee of the Oregon Collectors Association, 1 page.**

**B - HB 2416, written testimony, Paul Helikson of the Oregon Association of Process Servers, 1 page.**

**C - HB 2386, written testimony, Steve Mitchell, owner of Archies Cleaners in Medford, Oregon, 3 pages.**

**D - HB 2386, written testimony, Rep. Tony Corcoran, Assistant Democratic Leader, representing district 44, 7 pages.**

**E - HB 2386, written testimony, Laura Culberson of the Oregon Sate Public Interest Research Group, 2 pages.**

**F - HB 2386, written testimony, Jennifer A. Webber, Executive Director for the Oregon Commission for Women, 1 page.**

**G - HB 2386, written testimony, Marcia Latta of the Women's Rights Coalition, 1 page.**

**H - HB 2386, written testimony, League of Women Voters of Oregon, 1 page.**

**I - HB 2044, written testimony and selected excerpts from statutes of Washington and Illinois, Bill Taylor, committee counsel, 24 pages.**

**J - HB 2045, written testimony and proposed amendments, Dave Heynderickx, Deputy Legislative Counsel, and Bill Taylor, committee counsel, 6 pages.**