

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

February 25, 1997 Hearing Room 357

1:00 PM Tapes 33 - 34

MEMBERS PRESENT:

Rep. JOHN MINNIS, Chair

Rep. JO ANN BOWMAN, Vice-Chair

Rep. PETER COURTNEY

Rep. FLOYD PROZANSKI

Rep. LANE SHETTERLY

Rep. RON SUNSERI

Rep. LARRY WELLS

STAFF PRESENT:

SCOTT LUMSDEN, Counsel

BRIAN HIGGINS, Administrative Support

MEASURE/ISSUES HEARD:

HB 2632 - Public Hearing

HB 2523 - Public Hearing

SB 257 - Public Hearing

HB 2621 - Public Hearing

HB 2622 - 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 33, A		

009	Chair Minnis	Calls meeting to order at 1:43 p.m.
<u>OPENS PUBLIC HEARINGS ON HB 2632 and HB 2523</u>		
019	Sen. Wilde	District eight Suggests combining HBs 2632 and 2523 with HB 2820. Testifies in favor of the bills.
031	Rep. Eighmey	District 14 Testifies in favor of the bills. Discusses differences between his bill and Chair Minnis' bill. Recommends combining all three bills.
053	Rep. Bowman	Is there a problem here? Do we have people that actually lie to committee?
058	Rep. Fahey	District 17 We are in here passing laws on the assumption that all testimony is true. I think that when we are passing laws, testimony should be as true as possible.
067	Rep. Eighmey	There are a few people who do not tell the truth when appearing before committees. We make our decisions based on that testimony. It happens rarely, but we do need to send a message loud and clear that this is not a place to lie.
100	Rep. Fahey	I came here to support the consolidation of these bills. Discusses differences between his bill and the other two.
108	Sen. Leonard	I am very supportive of all three bills. I don't see this as a huge problem, but we expect that those testifying are telling the truth. This has nothing to do with opinion. If someone has mislead us, I believe there should be some consequences.
125	Rep. Minnis	It seems obvious that if nothing that states lying to a legislative committee is illegal, then it is legal, and that seems absurd.
131	Rep. Courtney	Cites language found in both bills. It seems that the Chair should have an obligation to let witnesses know that their testimony must be true. I'm still looking for a situation that you can point to. What is the magnitude that brings these bills to us? Because of the nature of these bills, some may be reluctant to have a true conversation with or testify in front of us.
172	Rep. Leonard	The state is very different now than when you first became a part of this. I here people saying that "I don't care what it says, I meant this." When someone comes to give testimony that will have legislative impact, affect how our children are schooled, etc., they better tell the truth.
204	Rep. Bowman	My fear is the potential for abuse of this legislation. If we don't feel that a problem does exist, and we are trying to make a law for a problem that may exist, I have a problem with that.

218	Sen. Leonard	This bill does not say that we, the legislature, will decide how to prosecute if it is violated. It is up to the district attorney to make independent assessment. What we are finding, in the state, is a demagogue of individuals who do and say what they want, and don't care. When we, as individual legislatures, are disrespectful to witness, we pay through the voters in our district. We are here because our voters put us here. We want the facts here. Testifiers should save the campaign stuff for the campaign.
242	Rep. Shetterly	Comments on why he believes there are laws against falsifying in court systems and not in legislature. Makes some suggestions to avoid "chilling" people.
263	Rep. Minnis	All three bills say, "no person shall knowingly present a false statement." The key word is "knowingly." That is different from hyperbole. We are talking about a blatant misrepresentation of the truth.
275	Rep. Shetterly	I think we should just narrow a little bit.
283	Rep. Eighmey	I have discovered, in my three terms, only one person testified falsely and knew they were doing so. I can live with putting Rep. Shetterly's suggestion of "material fact" in there.
322	Rep. Eighmey	I like the language of "upon written request of president or the Senate Speaker." That gives a safeguard and protection for the testifiers. I would add "material fact" though.
341	Chair Minnis	I spoke with Tom Clifford of Legislative Counsel about how we would notify those testifying. He suggested that notices be posted, so that would answer Rep. Courtney's concern about the Chair's responsibilities.
351	Rep. Wells	In HB 2820, section one, subsection three, it talks about the person testifying and taking an oath. I realize we are thinking of combining all three of these bills, but do you really want to have testifiers take an oath?
357	Rep. Fahey	There are a couple of ways to accomplish what we want: having a written oath on sign-in sheets, professional lobbyists could sign an oath, etc. I don't think that everyone standing up and taking an oath would be necessary.
369	Rep. Eighmey	There is already a rule making it a misdemeanor for lobbyists to lie before any committee, so we are just expanding it to include all other persons.
396	Mary Bodkin	American Federation of State County Municipal Employees, Professional Lobbyist The bill may be redundant because a lobbyist who expects to be here for more than 10 minutes is not going to lie to you.
411	Chair Minnis	Is that true of a government lobbyist also?
		That's the only reason I'm up here. I want to be sure that "person" includes governmental representatives, agencies, lobbyists, etc. I have never known a lobbyist to blatantly lie on the record. Going back to Rep.

412	Bodkin	Shetterly's comment: when people come here, they are coming here on their own, and in the court, they are not. I think this is okay. It's probably not necessary, but it's not a bad message to send out.
TAPE 34, A		
029	Paul Snider	Oregon Association of Counties We have no position on these bills. However, HB 2632 creates both a felony and a misdemeanor, so I'd like to comment on that. My concern is for the creation of new crimes and for the enhancement of penalties for existing crimes without providing resources for the criminal justice system to deal with. My suggestion is that, for the sake of the criminal justice system, the subcommittee seriously consider taking all the crimes, that create new offenses or that enhance penalties for existing offenses, and deal with them all together. I suggest that this be sent down to Ways and Means to see if there are resources to do this.
053	Chair Minnis	I disagree with you. I don't think that we should ever not create a crime because we feel we don't have resources to deal with it.
		Closes Public Hearings.
<u>OPENS PUBLIC HEARING ON HB 2621</u>		
075	Bill Markham	District 46, Chief Sponsor of HB 2621 Discusses HB 2621.
085	Rod Harder	National Rifle Association (NRA) Consultant for Oregon Submits written testimony in support of (EXHIBIT A) .
149	Rep. Wells	Why was the five years put in there in the first place?
154	Harder	That was a part of 1096 that the state police insisted on two years ago, and NRA bought off on it at that particular time, in order to get the bill passed. We objected to it then, and we still object to it.
156	Rep. Wells	On page three, line 44, what does that language mean?
	Harder	This would add concealed licensed hand-gun holders to exemptions already in existing statute.
168	Rep. Prozanski	What is current law regarding frequency of renewals?
172	Harder	It is every four years.
		HB 2622 is simplified. It grants reciprocity to people out-of-state who

175	Rep. Markham	hold a valid concealed weapons permit. If the examination in other states equals ours, or is superior, I see nothing wrong with it.
197	Kevin Sterritt	Gun Owners of America in Oregon Testifies in favor of the bill, but expresses concern that the bill may not do what it intends to do.
230	Rep. Bowman	You have letters that state that police agencies are keeping records illegally?
234	Sterritt	Gives background concerning the question and his earlier comment. I have the letter with me, if you would like to see it.
248	Rep. Bowman	My concern is that you claim to support the bill, but it has no teeth. It doesn't sound like there is a penalty now for not destroying the records after five years. Is that correct?
252	Sterritt	My understanding is that there was a penalty until July 1996, regarding disclosure of records.
261	Sen. Ferrioli	District 28, co-sponsor of HB 2621 I am concerned that the purpose of the records check law is to make sure that people with criminal history cannot obtain guns. Information I have obtained from Oregon police shows that the law is working. Why do we need to have what is essentially a gun registration on a legal gun? I see no reason to have these records kept with the police.
292	Chair Minnis	Allows comments on HB 2622.
294	Sen. Ferrioli	I believe in reciprocity. Comments on reciprocity regarding HB 2622.
327	Ole Oleson	Owens Ole's Gunshop in Salem, owner for 20 years In all those years, I never sold a gun to a criminal. I am very against police keeping records for five years. Ten days is long enough. We keep our records for 20 years, so if there is any criminal activity within that period of time, they can be traced through our records.
369	Chair Minnis	Allows comments on HB 2622.
373	Oleson	I would like to see reciprocity passed in this state, and for Oregon to accept permits from other states.
381	Carl Barner	Oregon State Shooting Association Gives background and explains the "old system." Also wants records destroyed.
429	Rep. Bowman	Allows comments on HB 2622.
450	Barner	I feel that if Oregon grants reciprocity, then other states would, in turn, grant reciprocity to Oregonians.
TAPE 33, B		
037	Rep. Bowman	Currently, is the concealed weapon permit you got here in Oregon valid anywhere else?

039	Barner	I believe Wyoming has reciprocity, and they will accept any permit. I believe Florida is looking at that as well.
042	Rep. Bowman	So this is not the norm then?
043	Barner	It's not the norm yet, but I think it's coming. At least, I hope it is.
040	Jim Ricke	Gun Dealer, owns sporting goods store and shooting range in Lebanon I believe in doing background checks to see if purchasers are criminals. I keep records for 20 years, and to do that twice is a waste of time and money. Florida does accept any permit. I also believe 11 other states accept our permits.
064	Rep. Bowman	You keep records for 20 years?
066	Ricke	I'm required by federal law to do that.
067	Rep. Bowman	Have you had problems with people because you are required to hold on to their records?
069	Ricke	Yes. I have people who think the government should have no control over that at all, but they do it.
086	Lt. Clifford Daimler	Lieutenant of the Oregon State Police, Director of the Identification Services Section Submits written testimony in opposition of HB 2621 (EXHIBIT B) .
136	Daimler	Continues testimony.
147	Russ Spencer	Oregon State Sheriffs' Association Also in opposition of HB 2621. I am particularly concerned about the provision that would exempt holders of concealed weapons from the instant check process.
165	Bowman	Allows comments on HB 2622.
167	Spencer	Testifies in opposition of HB 2622. We would oppose reciprocity with any state that does not meet the same requirements as Oregon imposes on concealed weapons permits. I am concerned with line 20 on page two.
194	Rep. Shetterly	We've had conflicting testimony. One side says HB 2621 would make no difference, but you obviously feel it would. Would you comment on that?
204	Daimler	Explains police investigations involving hand guns. We need to keep guns out of criminals' hands. We need our records for accountability. We don't have time to canvas every gun shop during an investigation. You can trace a gun back to the manufacturer, but usually, after the first sale, you lose it.
231	Rep. Shetterly	Do the manufacturers have records they can trace down the line?
233	Daimler	Explains the market and circulation of firearms regarding record keeping by manufacturers and sellers.
248	Rep. Courtney	How much do you know about other states in terms of their granting concealed weapons permits?

251	Daimler	In 1990, a study was conducted, and we found that no other state was comparable to Oregon, as no other state does mental health background checks the same as we do, and mental health is one of the most major factors in deciding reciprocity.
263	Rep. Courtney	Is there a wide variety of standards in other states, or is it pretty uniform?
268	Daimler	I don't know.
269	Rep. Courtney	Do you know if other states are lacking uniform standards, so police can do as they want?
283	Daimler	I don't know.
292	Kevin Sterritt	Gun Owners of America Testifies on HB 2622. Vermont does not require a permit for a concealed hand gun, and they have one of the lowest crime rates in the country. So, if someone visits Oregon from Vermont, carrying a hand gun, they are following the law in their state, but he'd be breaking the law here. Forty-five days is plenty long to do a significant background check. Gives background and procedures to support is position. I think there should be a provision to cover people that carry a gun without a permit, and it's permitted in their home state.
348	Rep. Prozanski	Do you believe in state rights and tenth Amendment?
353	Starritt	Yes. I also believe in honoring interstate contracts.
370	John Nichols	Gun Owners of Oregon Introduces Justin Burns. Testifies in support of HB 2622. Reciprocity shouldn't be needed because of the Constitution, but no one has challenged that in court, so here's the bill.
388	Justin Burns	Comments that they have gun owners who cross from Vancouver to Portland, and their permits become invalid. Most of the time, it is not an issue because they are not staying for an extended period of time. We would support an amendment to the bill, saying that if someone moved here from another state, they would have to reapply and go through our standards.
436	Rep. Courtney	Comments on Oregon standards.
TAPE 34, B		
015	Rep. Courtney	Further comments. I don't think that's fair to Oregonians. If anything, this discriminates in favor of out-of-staters. Doesn't that bother you.
025	Nichols	No.
034	Rep. Courtney	I don't really care about mental health checks, etc., but there are still 19 states left, and I'd like to know more about them.
		I believe states, like Hawaii and New York, have much stricter standards

040	Nichols	than Oregon does.
042	Rep. Bowman	Closes Public Hearings and adjourns.

Transcribed by, Reviewed by,

LISA FRITZ, SCOTT LUMSDEN,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 2621, written testimony, Rod Harder, Consultant to the National Rifle Association, 4 pages.

B - HB 2621, written testimony, Lt. Clifford Daimler, Director of the Identification Services Section, Oregon State Police, 2 pages.