

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

March 19, 1997 Hearing Room 357

3:15 PM Tapes 56 - 57

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

MEMBER EXCUSED:

STAFF PRESENT:

SCOTT LUMSDEN, Counsel

BRIAN HIGGINS, Administrative Support

MEASURE/ISSUES HEARD:

Work Sessions - HB 2992, HB 2240, HB 2940, HB 2983

Public Hearing and Work Sessions - HB 2918, HB 2994

Public Hearing - HB 3211

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 56, A		
007	Chair Minnis	Calls subcommittee to order

<u>HB 3211 - PUBLIC HEARING</u>		
008	Chair Minnis	Opens public hearing on HB 3211
013	Randall Edwards	State Representative, District 15
015	Ryan Deckert	State Representative, District 8
016	Rep. Edwards	<p>Introduced bill on behalf of PTA and the Atkinson School in his district</p> <p>>submits letter, (EXHIBIT A)</p> <p>>expanding on notion of safety zone as in construction areas</p> <p>>The bill sets up a doubling of fines for various traffic infractions within the school zone and requires signage as well.</p> <p>>The bill allows local jurisdictions to volunteer to put up the signage with ODOT producing the signs.</p>
052	Rep. Deckert	There is a school in my district in which a girl was hit crossing the street to her school and so I think anything we can do to slow vehicles down near a school, I certainly support.
062	Rep. Shetterly	Asks about the definition of when children are present in a school zone
		>Would we want to pick up the definition from Rep. Luke's bill for line 26 of this bill?
069	Rep. Edwards	The two bills would be compatible, so assuming the other bill becomes law, this would reference that one.
074	Chair Minnis	<p>I think the question you're asking is whether this bill should pick up those changes.</p> <p>>We will have to have counsel look at that to see if we need to reference it.</p>
080	Rep. Shetterly	Does this bill mean that bail would automatically be twice of what it normally is?
093	Chair Minnis	I assume there would be a separate bail schedule issued by the Supreme Court in the context of the uniform citation schedule.
101	Rep. Wells	<p>Comments current fines for infractions within school zones.</p> <p>>Why don't we just change the statutes to have different levels for schools instead of doubling them?</p>

110	Rep. Deckert	What I like about this bill is that it signifies that I am entering a sensitive area when I see the signage.
118	Rep. Wells	I'm worried that every time I turn around there is going to be double fines for everything.
121	Rep. Edwards	We do recognize the special speed limit within a school zone. >Just like we recognize the special situations of construction zones, it would be consistent with the theory that there is a safety zone around schools.
131	Rep. Bowman	Is this just during the hours of school operation?
134	Rep. Edwards	I think it would be when children are present. >My intent would be when children are present as shown in line 26.
155	Larry Christianson	Roadway Safety Program Coordinator, Oregon Department of Transportation >submits and reads written testimony, (EXHIBIT B)
171	Chair Minnis	It's permissive as to the Road Authority posting the signs notwithstanding the presence of the signs or not.
175	Christianson	Responds by relating to the 1995 legislation about construction zones
191	Rep. Shetterly	I read this as saying that a flashing light is a necessary component of creating the offense per line 21.
203	Rep. Sunseri	The 1993 legislators passed a law raising the traffic fines to an incredible place which were then rolled back in the 1995 legislation. >I have read that the number of citations hasn't gone down.
215	Christianson	The issue of fines came up as a block in the construction zone legislation as well. >Not an issue of creating revenue but of awareness.
221	Chair Minnis	In 1993 the purpose was to raise revenue.
225	Christianson	For the record, the issue in raising fines in construction zones was not to raise revenue.
227	Rep. Sunseri	Clarifies previous question >Raising fines previously didn't seem to slow people down.
234	Christianson	The strength of the law doubling fines is in its awareness.
245	Chair Minnis	Do we have any history as to the school bus issue when the flashing lights coming on and people passing the buses? >I remember the bail for that violation being \$515. >I think a lot more people are stopping when they see those red lights

		than they did 5 or 6 years ago.
261	Christianson	There is still some confusion about what is required to be done when the red lights flash on school buses, but I do not have the statistics as to the compliance rate now.
267	Chair Minnis	Do we have any numbers with respect to accidents involving children in school zones?
271	Christianson	The collection of that information might be a bit difficult due to the placement of the signs.
282	Joyce Cresswell	<p>Legislative Assistant, Rep. Randall Edwards</p> <ul style="list-style-type: none"> >has child in Atkinson School, on busy Division St. >refers to EXHIBIT A >The problem at the school is that cars run the red light next to the school. >worked with city over the years on the intersection near school >previous idea of putting in a railroad arm, but money (\$50,000) wasn't available >measure based on successful construction zone legislation
337		<ul style="list-style-type: none"> >key to measure is the signage >signage is allowed in cooperation with the PTA's >PTA's can pay the cost of \$200 per sign
393	Rep. Sunseri	<p>The bill says that when children are present, so does this include little league during the summer?</p> <ul style="list-style-type: none"> >How do we educate the drivers that fines are doubled not only when school is in session?
410	Cresswell	<p>Responds that it is a concern because kids are around all of the time</p> <ul style="list-style-type: none"> >I agree that people think that it would only apply during school hours, but in reality kids are around at all hours.
422	Rep. Wells	<p>We've plowed this ground about 3 times in the Transportation Committee.</p> <ul style="list-style-type: none"> >not sure whether current language in Rep. Luke's bill was improved or not
TAPE 57, A		

023	Rep. Shetterly	We could lift language out of HB 2462 onto line 26 so as to incorporate the language of children being present. >The safety issues are the same whether school is in session or not.
036	Chair Minnis	Closes public hearing on HB 3211 >doesn't want to move bill out in light of possible need for amendments as Rep. Shetterly has suggested >Asks about whether fines should double if there are no signs posted
044	Rep. Sunseri	It seems that the signs are what has the impact, not the fines.
045	Chair Minnis	Enforcement has the impact.
051	Rep. Courtney	Did we not keep that one (flashing lights on bus issue) high in 1993 because it relates to that issue?
072	Chair Minnis	How do you guys feel about this?
073	Rep. Sunseri	Asks for Rep. Wells to expound on Rep. Luke's bill that just passed out of Transportation
075	Rep. Wells	Responds that there was a lot of discussion about lowering the speed limits but this posed problems for schools next to a 55 mph arterial >Current signs say "when children are present" and we didn't want to spend any money changing those signs.
092	Chair Minnis	Do you agree with the policy of the bill?
093	Rep. Wells	I think the signs have the greatest effect, but I don't know that it will have an impact. >I guess I have a little bit of a problem with it.
102	Rep. Shetterly	I'm okay with it with the amendment.
<u>HB 3211 - WORK SESSION</u>		
108	Chair Minnis	Opens work session on HB 3211 >The amendment would be to adopt the language from HB 2462 as it relates to "when children are present" on line 26.
117	Rep. Bowman	What did HB 2462 do?
119	Rep. Wells	Responds that they attempted to deal with speeding in front of schools as it is difficult to define "when children are present"

		>It is difficult to define in law when there is a hazard to children and when there is not.
142	Rep. Bowman	Unless we are going to put the signs up, how are we going to make people aware?
152	Chair Minnis	In Section 5 of the bill, line 21 it says: "for purposes of this section, a traffic offense occurs in a school zone if the offense occurs while the motor vehicle is passing school grounds or school crosswalks,..."
163	Rep. Bowman	I am concerned that there will be notices some place and not in others.
172	Rep. Prozanski	Whenever any law passes, it is not the duty of the legislature to give notification. >If there is a concern in the committee, an option would be to require a posting and if there is not a posting then there is not a doubling. >This may be setting up a double standard, risking violation of equal protection.
184	Rep. Sunseri	If we double the bail and there are no signs then I think we have defeated the purpose.
188	Rep. Shetterly	I've got the language here, but it doesn't address any of your concerns. >My motion was, on line 26 to delete the word "present" and substitute language from the other bill.
203	Rep. Shetterly	MOTION: Moves to AMEND HB 3211 on page 1, in line 26, after "are" delete the word "present" and insert "in a place where they are or should be visible to a person operating a motor vehicle that is passing a school ground or school crosswalk;" .
212		VOTE: 6-0 EXCUSED: 1 - Rep. Courtney
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
214	Chair Minnis	The next issue is whether the fines will double always notwithstanding the posting of signs.
219	Rep. Sunseri	My understanding was that there was going to be signs to notify people of this case.
224	Rep. Edwards	People will take driver's ed and learn that they need to obey just like they do about speeding, so I guess my preference would be not to change it with the amendment.
244	Rep. Sunseri	Would it make a difference if we said the fine is not doubled until the signs are posted?
249	Rep. Edwards	My concern would be that why would one area be any less protected than another area.?
		This goes to the issue of what Rep. Wells raised earlier that where a

252	Chair Minnis	<p>school is on a thoroughfare, this would not effect that area unless the school district put up the signs.</p> <p>>Some people would say this is a Portland problem and not a rural problem.</p>
265	Rep. Sunseri	It would certainly solve the problem for Atkinson because they would get the signs.
266	Chair Minnis	<p>My sense is that we are not going to be able to work on this any further today.</p> <p>>Closes work session on HB 3211</p>
<u>HB 2940 - WORK SESSION</u>		
292	Chair Minnis	Opens work session on HB 2940
295	Rep. Prozanski	<p>When the committee ended the other day there were a few options out there as to some potential compromise.</p> <p>>problem with the fiscal being the same for both HB 2940 and HB 2983 when it clearly seems that one would be more than the other, specifically under HB 2940</p>
312	Chair Minnis	At a call of the House, announces a recess.
318	Rep. Prozanski	<p>How can the two bills be blended together?</p> <p>>risk is less if they are on foot than if they are in motor vehicles</p> <p>>would be willing to go with a bifurcated sanction based whether or not an individual is in an automobile as compared to on foot</p>
341	Chair Minnis	I think the discussion was that we did not want the Class C felony applying to those on foot.
343	Rep. Prozanski	It would be a Class A misdemeanor for those on foot and Class C for those in car.
357	Rep. Wells	So, we're really looking at HB 2940 and are not going to do anything with HB 2983.
360	Chair Minnis	Responds
368	Rep. Wells	I really like HB 2940 better because it is more simple and do what you were talking about the separation.
374	Chair Minnis	Since we are in work session, we could conceptually amend it.
379	Rep. Prozanski	We could take language from HB 2983 because it is already classified in the two areas and just restate what they apply to.
390	Chair Minnis	Comments

393	Rep. Prozanski	We just need to designate what the bold print would apply to, which is that that all motor vehicles which elude would be a Class C felony.
398	Chair Minnis	Let's draft this conceptually and LC can put it in the proper language.
400	Rep. Shetterly	What occurs to me is that if we look on line 17 we could say "is a Class C felony if committed under 1b, A and a Class A misdemeanor if committed under 1b, B." It appears the delineation between vehicle and non-vehicle is already made.
411	Chair Minnis	Clarifies Rep. Shetterly's conceptual amendment
417	Rep. Prozanski	MOTION: Moves to AMEND HB 2940 by making the attempt to elude an officer in a motor vehicle a Class C felony and in a non-motor vehicle a Class A misdemeanor.
425		VOTE: 6-0 EXCUSED: 1 - Rep. Courtney
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
433	Rep. Prozanski	MOTION: Moves HB 2940 to full committee with a DO PASS AS AMENDED recommendation.
435	Chair Minnis	What we'll do is have LC draft the conceptualls and if there is a problem in full committee we can move it back to the subcommittee.
TAPE 56, B		
024	Rep. Wells	We need to move to a work session on HB 2983
026	Chair Minnis	The conceptual appears it would work on both. >Closes work session on HB 2940
<u>HB 2983 - WORK SESSION</u>		
031	Chair Minnis	Opens work session on HB 2983 >Clarifies Rep. Prozanski's conceptual amendment made in previous work session to be applied to HB 2983
035		VOTE: 7-0-0
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
037	Rep. Prozanski	MOTION: Moves HB 2983 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0-0

038		AYE: In a roll call vote, all members present vote Aye.
	Chair Minnis	The motion CARRIES.
		Closes work session on HB 2983
<u>HB 2992 - WORK SESSION</u>		
046	Chair Minnis	Opens work session on HB 2992
050	Rep. Shetterly	MOTION: Moves HB 2992 to the full committee with a DO PASS recommendation.
053		VOTE: 6-1-0 AYE: 6 - Rep. Courtney, Rep. Prozanski, Rep. Shetterly, Rep. Sunseri, Rep. Wells, Chair Minnis NAY: 1 - Rep. Bowman
	Chair Minnis	The motion Carries.
		Closes work session on HB 2992
<u>HB 2240 - WORK SESSION</u>		
061	Chair Minnis	Opens work session on HB 2240
065	Scott Lumsden	Committee Counsel >reads provisions of bill and -2 amendments, (EXHIBIT C)
076	Chair Minnis	So procedurally, we need to adopt the -2 amendments.
081	Rep. Bowman	MOTION: Moves to ADOPT HB 2240-2 amendments dated 03/10/97.
083		VOTE: 7-0-0
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
085	Lumsden	This clarifies that the expungement of the arrest record will not affect records associated with the arrest records such as failure to submit to alcohol blood testing or participation in a diversion program.
091	Rep.	What it doesn't allow for is for traffic offense convictions to be expunged, except if there is an arrest without a conviction and that any

		someone who has kept their life clean and has two misdemeanors arising from the same episode the person would have the ability to have their records expunged.
173	Arneson	I don't know that he had any objections other than the language I mentioned.
181	Chair Minnis	Closes public hearing on HB 2918
<u>HB 2994 - PUBLIC HEARING</u>		
182	Chair Minnis	Opens public hearing on HB 2994
186	Jim Arneson	<p>Oregon Criminal Defense Lawyers Association</p> <p>>in support of bill</p> <p>>Oregon Constitution requires that charges be brought in the county in which there is venue, but this bill allows the defendant to waive that Constitutional provision to allow different charges to be brought in the same venue.</p> <p>>gives example of client who was being prosecuted in Crook and Douglas Counties</p>
221	Floyd Prozanski	<p>State Representative, District 40</p> <p>>bill submitted on behalf of Lane County Child Advocacy Center and The Junior League of Eugene</p> <p>>The Constitution is clear we can't do what this bill provides which is why we introduced the bill.</p> <p>>bill also benefits the victim</p>
254	Chair Minnis	It seems to me like it would prevent the worry of the case being tried in multiple jurisdictions.
<u>HB 2994 - WORK SESSION</u>		
255	Chair Minnis	Opens work session on HB 2994
258	Rep. Shetterly	MOTION: Moves HB 2994 to the full committee with a DO PASS recommendation.
261		VOTE: 7-0-0

		AYE: In a roll call vote, all members present vote Aye.
	Chair Minnis	The motion CARRIES.
		Closes work session on HB 2994
<u>HB 2918 - PUBLIC HEARING</u>		
266	Chair Minnis	Opens work session on HB 2918
269	Ryan Deckert	State Representative, District 8 >bill is at the request of a constituent who is an officer with Washington County
278	Chair Minnis	I couldn't recall why he wanted to expunge them, do you recall?
280	Rep. Deckert	It's in the letter he sent me and I think it was just for the appearance of his record.
283	Rep. Prozanski	Do you know what the crimes were that he was convicted of?
285	Rep. Deckert	It was Assault 4 and Criminal Mischief 2.
288	Rep. Prozanski	Comments
290	Chair Minnis	There is some confusion because of how we classify assault 4.
302	Scott Lumsden	Committee Counsel >addresses concerns regarding language of bill about violations and misdemeanors on page 3 of the bill, line 9
317	Arneson	That's a good idea.
<u>HB 2918 - WORK SESSION</u>		
318	Chair Minnis	Opens work session on HB 2918 >I think Mr. Arneson brought up a good point on line 10, page 3 of the bill regarding single action.
324	Arneson	Clarifies on page 3, line 2 would be the place to amend
330	Chair Minnis	We would delete "a single action" and include "criminal episode."

340	Rep. Shetterly	MOTION: Moves to AMEND HB 2918 on page 3, in line 10, after "single," delete "action," and insert "criminal episode".
345		VOTE: 7-0-0
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
346	Chair Minnis	Counsel has advised that on line 9 that the phrase all misdemeanors should include violations.
350	Rep. Shetterly	What does that do to page 2, line 44?
358	Rep. Prozanski	There are two types of violations. What are your concerns? >There is a criminal violation versus a traffic violation.
368	Rep. Shetterly	If you look on page 3, it refers to motor vehicle violations, so I want to make sure we're not undoing more than we can.
373	Chair Minnis	Clarifies the question
376	Lumsden	Section B excludes motor vehicle violations on line 1, page 3 of the bill.
382	Rep. Prozanski	You may want to include something that deals with non-traffic.
385	Chair Minnis	I kind of think we're getting into another area; I'm satisfied with the current language.
395	Rep. Prozanski	Regarding line 44, page 2, the way I interpret the state or municipal traffic offenses, they are being denoted separately from criminal conduct that is not traffic-related.
410	Chair Minnis	I think we ought to get some clarity to the issue and get back to it.
		Declares subcommittee adjourned

Submitted by, Reviewed by,

Brian Higgins, Scott Lumsden,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 3211, Written testimony, Rep. Randall Edwards, 1 p.

B - HB 3211, Written testimony, Larry Christianson, Department of Transportation, 1 p.

C - HB 2240, Proposed amendments, Staff, 2 pp.