

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

April 7, 1997 Hearing Room 50

1:00 PM Tapes 74 - 79

MEMBERS PRESENT:

Rep. John Minnis, Chair

Rep. Jo Ann Bowman, Vice-Chair

Rep. Peter Courtney

Rep. Floyd Prozanski

Rep. Shetterly

Rep. Ron Sunseri

Rep. Larry Wells

MEMBERS PRESENT

**(SENATE CRIME AND
CORRECTIONS):**

Sen. Shirley Stull, Chair

Sen. Jeannette Hamby, Vice-Chair

Sen. Avel Gordly

Sen. Eileen Qutub

Sen. Veral Tarno

Sen. Cliff Trow

STAFF PRESENT:

Scott Lumsden, Counsel

Brian Higgins, Administrative Support

MEASURE/ISSUES HEARD:

Combined Hearing with Senate Crime and Corrections Committee

HB 3643 - Public Hearing

SB 636 - 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 74, A		
003	Chair Minnis	Calls the meeting to order at 1:12 p.m.
<u>HB 3643 - PUBLIC HEARING</u>		
005	Sen. Stull	Calls the meeting to order at 1:13 p.m.
<u>SB 636 - PUBLIC HEARING</u>		
015	Rep. Ben Westlund	State Representative, District 55 Testifies in support of SB 636. Discusses personal history of drug and alcohol use.
057	Chief Charles Moose	Portland Chief of Police and Chairman of Regional Drug Initiative (RDI) Comments on the conflicting message of drug use, the view of marijuana as a gateway drug (like alcohol and cigarettes), the need to look outside the criminal justice system for solutions, and society's failure to recognize those people, who use marijuana, who have failed. Comments that no law comes without subsequent costs.
115	Chief Moose	Continues testimony. Comments that the Class C misdemeanor allows judge to deal with situation using a "hammer."
129	Sen. Gordly	Asks for additional information about fiscal impact statements for HB 3643 and SB 636.
136	Sen. Stull	That data is not yet completed.
138	Chair Minnis	The word going around is \$1 million to \$1.5 million.
140	Sen. Gordly	Is it the Chair's intent to hold additional hearings?

142	Sen. Stull	We will have an additional hearing.
146	Rep. Bowman	Asks about success of diversion programs for first time offenders?
148	Chief Moose	I do not have those figures with me today.
149	Rep. Bowman	It would be helpful to find out if the current diversion programs are effective and, if so, what percentage of our population is utilizing those programs.
154	Chief Moose	We really don't know the value we can put on any individual. If we are able to help one person, then I consider that a victory.
161	Rep. Bowman	Does that mean that alcohol and drug treatment is a part of this bill?
164	Chief Moose	I don't know if it's included in the bill, but I think we need to take a look at everything we do. Giving a ticket doesn't bring a person into the system, but it does give us a chance to evaluate their status and to address that issue. This serves as a conduit to get them and to get their attention.
171	Chair Minnis	Asks about community policing and diversion programs.
174	Chief Moose	I think the whole concept of community policing is throughout this bill.
183	Rep. Prozanski	Reads aloud from an 1994 RDI report. Should we focus on keeping kids from alcohol and tobacco to keep them from smoking marijuana?
190	Chief Moose	I concur with the RDI report. Comments that there are benefits from early age discussions regarding dangers of marijuana. Comments on programs that deal with early age prevention. My focus today was on HB 3643, which deals with society's acknowledgment of the lesser "status" of marijuana, when compared to other drugs.
246	Chair Minnis	States that the reference, Rep. Prozanski eluded to, is <i>Cigarettes, Alcohol and Marijuana: Gateways to Elicit Drug Use</i> , October 1994, Joseph A. Califano, Chairman and President of RDI. Reads portion of the report. Comments that it is important to read the entire quote.
260	Rep. Prozanski	Asks about stiff penalties for alcohol. Isn't it true that the fine is \$250?
262	Chief Moose	Yes.
263	Rep. Prozanski	And, the current fine for someone in possession of less than an ounce of marijuana is a minimum \$500 and a maximum of \$1,000.
266	Chief Moose	Yes.
270	Rep. Prozanski	Asks about upgrading Portland Schools Drug Use Survey. Comments on a discrepancy about increased fines being a deterrent.
	Chief	I would hope that we're not proud it has only increased 29 percent. My

293	Moose	community is not saying that we want to take those kids into custody.
313	Rep. Prozanski	Clarifies question about felonies. Discusses recriminalization versus education.
325	Chief Moose	My response is that we have to address the issue the whole way around holistically. Discusses education and job opportunities.
335	John Raichl	Clackamas County Sheriff, Oregon State Sheriffs' Association Comments that the association supports the bill. Comments that there have been loopholes in enforcement abilities and that the sheriffs would like a consistent message. Less than an ounce of marijuana can have a value of \$1,000, and this is not a small amount. Comments on the need for law enforcement officials to have the tools to close the loophole and to send a consistent message.
382	Sen. Stull	We are asking to increase this to a Class C misdemeanor. Discusses testimony of the Oregon Youth Authority.
410	Sen. Tarno	I have heard that the THC content in today's marijuana has substantially increased from about 20 years ago. Can you provide us with official data from laboratories regarding THC content?
420	Raichl	Twenty years ago, it was rare to find any marijuana, in the state of Oregon, that was in excess of two percent THC. Discusses ratification processes. It is not unusual for us to get test results back, today, where the THC level is 18-19 percent.
TAPE 75, A		
015	Rep. Prozanski	Asks for clarification regarding the comments about "tools" that need to be available.
017	Raichl	One of the problems with decriminalization is that it restricts our ability to arrest and to search. You cannot do those things when you are dealing with only a violation.
027	Rep. Prozanski	The officers would like to have search and seizure available to them.
029	Raichl	Yes. Then we would be able to use the same procedures that we do for any other drug, including alcohol.
032	Rep. Prozanski	So, search warrants could be issued as well.
033	Raichl	Search warrants could be issued when there is probable cause, but not at the time of arrest.
038	Chair Minnis	My understanding is that a Class C misdemeanor must occur in your presence, but that would not prevent you from doing a search and seizure arrest in a custody situation.
041	Rep. Prozanski	We received a proposed budget cut of \$5.2 million for the Oregon Youth Authority, and that would include diversion money. If we are trying to get a message out and trying to help young people, do you think it's wise to cut these types of services?

050	Chief Moose	We are disturbed that we have to make and recommend these cuts. Discusses different impacts and problem solving, depending on type of community. Our job is to provide the tools, so each community can provide solutions.
067	Rep. Bowman	We've heard a lot of talk about Measure 47 in the subcommittee. How can you enforce this new law, if implemented?
075	Raichl	I realize that throughout the state, funding levels for agencies are going to vary. The principle is that the laws are out there.
096	Rep. Bowman	I see these bills as a message to youth. Do you agree?
097	Raichl	Yes, I agree.
110	Anthony Dean	Prevention Coordinator, North Clackamas School District Submits and reads aloud written testimony regarding HB 3643 and SB 636 (EXHIBIT A).
165	Dean	Continues testimony.
215	Dean	Continues testimony.
231	Robin Pelo	Guidance Counselor, Clackamas County Gives example of middle school student. Discusses a 1986 survey and studies done on eighth grade students. Comments that friends who use marijuana are a predictor.
285	Pelo	Continues testimony. Cites 1986 survey results. These bills allow an opportunity to send a message to youth.
320	Rep. Prozanski	You've made some references to alcohol. Can you tell us about some experiences?
327	Dean	My experiences are varied. Youths report to me problems with the law, physiological problems, familial and peer problems, etc.
330	Rep. Prozanski	Is there any reason to dispute claims in the report Ms. Pelo cited?
336	Dean	I have no reason to dispute that.
338	Rep. Prozanski	It wouldn't surprise you that 91 percent of eleventh graders have used alcohol.
340	Dean	No.
342	Rep. Prozanski	You made a statement that "marijuana needs to be illegal." Do you understand that it is illegal today?
343	Dean	Yes. I meant that we need to send a message to youths that it is illegal. Oftentimes, youths don't view something as being illegal until they've experienced it.
357	Rep. Prozanski	Refers again to report, page 47. Comments on the increase of "hard" drugs. What message do you propose that we send out? It is a felony to use other drugs, yet the usage is still rising.
		For me, it goes to accessibility. Marijuana is more accessible than other

380	Dean	drugs. I think that's what is the issue, in a student's mind: what is accessible, not the specific language of a statute.
394	Rep. Prozanski	So, even though something is listed as a felony, they're not getting the message.
395	Dean	I don't mean to suggest that; I just think that that's not the first thing on their mind.
397	Rep. Prozanski	Do you believe in education? For instance, if we took the money, we were going to use to put this law into effect, and put it into rehabilitation, education, etc., do you think we would be able to get the message out there to them?
402	Dean	I would agree with Chief Moose that we need to take a holistic, comprehensive approach. Comments about the education kids receive in the classroom and on the streets.
414	Sen. Tarno	Do you have an opinion as to whether education is enough alone?
422	Pelo	I think a multi-prong approach, such as enforcement and stronger sanctions, coupled with education, would be the most efficient.
TAPE 74, B		
018	Dean	Encourages members to review materials developed by the office of Alcohol and Drug Abuse Programs, relative to the Oregon Together Project because it gets at the point a multi-faceted approach is needed.
024	Sen. Stull	Asks for clarification of written statements involving the shifting of children's attitudes.
034	Rep. Bowman	Cites a statement from Mr. Dean's written testimony. What information do you have to back that up?
036	Dean	Part of my responsibility, as prevention coordinator, is to collect statistics.
040	Rep. Bowman	Do your students get expelled for using tobacco, alcohol?
041	Dean	Yes.
044	Rep. Bowman	What are the percentages?
047	Dean	Roughly speaking, for every four suspensions that are tobacco-related, there is one suspension that is alcohol-related, and there is about a 0.5 marijuana suspension.
052	Rep. Bowman	Is it your experience that education and parents have more of an impact than criminal sanctions and penalties?
055	Dean	I believe they go hand in hand. I don't know which is the more powerful direction.
062	Rep. Bowman	Do the kids you work with know marijuana is currently illegal?
063	Dean	Yes, they do.
	Rep.	

064	Bowman	Does that deter them from using it?
065	Dean	Again, it goes to enforcement. I don't believe their "real life" experience is such that they believe they will experience any true negative consequence if they are caught with less than an ounce of marijuana.
071	Rep. Bowman	Do they also know that alcohol is illegal for them to use as well?
072	Dean	Yes.
073	Rep. Bowman	But, that hasn't impacted their behavior.
074	Dean	It is easier for students to hide their use of alcohol than it is to hide their use of marijuana.
075	Sen. Gordly	Have you read the bill?
076	Dean	I have reviewed it. I can't say I've read every word.
077	Sen. Gordly	What are your thoughts about parental responsibility, as it relates to the issues at hand?
084	Dean	The most attractive feature of the bill, for me, is that it calls for a drug assessment and that this assessment would be paid for by parents.
091	Rep. Prozanski	Regarding the study of a holistic approach, my review doesn't show anything, regarding the need for enforcement or incarceration arm. It stresses urgency for treatment and education.
103	Dean	I view this as a continuum, and you're speaking to the prevention part of it.
110	Rep. Prozanski	Discusses current statutes. How do we get a different message to our kids?
122	Chair Minnis	Which document are you referring to?
123	Rep. Prozanski	The 1996 <i>Oregon Public School Drug Use Survey</i> .
126	Dean	The growth of marijuana in the state of Oregon is more so than in other states.
128	Rep. Prozanski	This finding conflicts with what you just said, so I don't know which data you are looking at.
130	Dean	When you look at real numbers, state by state, Oregon is a tad higher.
141	Sen. Qutub	Discusses a report where smoking education was taught in schools, and the number of kids smoking went up. Have either of you heard anything like that?
145	Dean	Yes, we have seen an increase in the rates of smoking among teens, but I don't know which report you are referring to.
157	Sen. Qutub	The industry has been doing this, and there seems to be a correlation between education, which teaches kids not to smoke, and their choice to smoke. Education is not the answer to everything; sometimes we have to take action that has very negative consequences.

184	Lieutenant Ed Mouery	Drug Enforcement Section Commander, Oregon State Police Submits written testimony in favor of HB 3643 and SB 636 (EXHIBIT B).
222	Sergeant Al Bathke	Forensic Services Division, Oregon State Police Submits written testimony and -1 amendments to HB 3643 (EXHIBIT C).
238	Rep. Prozanski	This is in line with DUII. As a prosecutor, I'm not familiar with where an individual would have to stipulate that they are under the influence of intoxicants, prior to entering into a diversion.
244	Sgt. Bathke	What I meant is the laws, regarding the diversion agreement for marijuana, are the same as those for DUII.
250	Rep. Prozanski	Asks why there is a continued increase in use of drugs.
260	Lt. Mouery	The attitude is the same with violation and felony drugs. The percent increasing here is alarming. Many start with marijuana or alcohol and move to harder drugs. We are not going to reach a zero percent usage anywhere in this nation, but I would hope more kids would get the message if we raise this to a Class C misdemeanor.
297	Rep. Shetterly	Asks about fiscal impact. Do you think there is justification for that diversion of funds, from education to enforcement?
301	Lt. Mouery	I look at a balanced approach, a four-legged stool: education, enforcement, treatment, intervention. If you cut off one leg of the stool, it's not going to sit very well.
331	Sen. Gordly	The question is about the funding piece of the bill. In this state, we don't have enough troopers to handle current laws. If you had the choice of spending \$1.5 million for this or for more troopers, which would you choose?
345	Lt. Mouery	That is a tough question to answer. Either way it will have an impact.
358	Sen. Gordly	One of the things we heard from Oregon State Police and their need for more officers was that they need backup. Can we really afford to pay for this right now?
370	Chair Minnis	It's a matter of choices. I'm not sure the choice raised by Sen. Gordly is the only choice.
379	Rep. Bowman	In Multnomah County, we are unable to provide all of the treatment we need to. How do we ensure that the appropriate drug and alcohol treatments are going to be in the communities, to help change these juveniles' behavior? Do we put someone in front of a judge, or do we provide them with treatment?
392	Lt. Mouery	Discusses a television program about three teens and their struggles with marijuana and the justice system. Comments that different processes need to be utilized for repeat offenders.
420	Chair Minnis	We're getting into a broad area; be more specific with your questions.

TAPE 75, B		
012	Rep. Bowman	This bill has been presented to us as an opportunity to educate our youth, but it does not just address youth.
020	Lt. Mouery	The bill's purpose is to send a clear message to the kids, but the bill can't do it alone. Everyone needs to do their part to clear up the mixed message.
027	Rep. Bowman	Would you agree this is not a youth bill?
028	Lt. Mouery	Yes.
030	Rep. Prozanski	There are three gateway drugs: tobacco, marijuana, and alcohol. Since, marijuana has the most expensive fines for usage, do you believe we should increase fines and sanctions on tobacco and alcohol?
035	Lt. Mouery	Marijuana, out of those three drugs, gives you the best high.
039	Chair Minnis	Cigarettes and alcohol are legal when you are of age. Marijuana is considered illegal, across the board, for adults and juveniles.
050	Sen. Hamby	Some states are going farther than Oregon in their research of drug abuse. The overwhelming answer to the question, "What is a gateway drug?" is "inhalants." Inhalants can be found around the house and are much more damaging than marijuana. How would you respond if we were to ever ask that kind of a question in Oregon?
063	Lt. Mouery	It's difficult to say. It would be interesting to see what type of a questionnaire is used, so we can shape up some of those answers.
068	Sen. Hamby	Some studies show inhalants are a bigger problem than marijuana.
073	Rep. Eighmey	I would like an opportunity to testify before the 3:00 p.m. break.
083	Eric Martin	Addiction Counselor of Oregon Submits and summarizes written testimony (EXHIBIT D) .
133	Martin	Continues testimony.
183	Martin	Continues testimony.
233	Martin	Continues testimony.
294	Jackie Johnson	Staff Member of RDI Testifies in favor of HB 3643. Introduces Nathaniel Crissman, Nichole Mills, and John Powers.
333	Nathaniel Crissman	RDI Youth Coalition Member Submits and reads aloud written testimony in favor of HB 3643 (EXHIBIT E) .
356	John Powers	RDI Youth Coalition Member Submits and reads aloud written testimony in favor of HB 3643 (EXHIBIT F) .
381	Nichole Mills	RDI Youth Coalition Member Submits and reads aloud written testimony in favor of HB 3643 (EXHIBIT G) .
	Rep.	Have any of you ever had friends who were caught by the police for

400	Bowman	smoking marijuana?
402	Powers	I don't know if they've been caught. I hear tons of kids talking about it at school, who has it, and stuff like that, but I don't think they're caught often. It seems like what goes on is really not seen.
407	Rep. Bowman	Did you know that marijuana is currently illegal?
408	Powers	Yes.
409	Rep. Bowman	Did you know what the penalty is for having marijuana in your possession?
410	Powers	I heard that, currently, it's the equivalent of a ticket.
411	Rep. Bowman	Do you know how much you have to pay for that ticket?
412	Powers	No.
TAPE 76, A		
021	Sen. Stull	Thank you for telling your stories. I know it's difficult to grow up in this day and age with all the peer pressure. You restore the face of the human race. I appreciate what you have done, and I hope you will continue to do so with your peers.
030	Sen. Bill Dwyer	State Senator, District 21 Discusses his bill, SB 351, as it relates to HB 3643 and SB 636. Submits proposed amendments (-4) to HB 3643 (EXHIBIT H) . Discusses concerns about the fiscal impact of HB 3643. Discusses concerns about the unintended consequences of the bill. Emphasizes that "kids are kids."
080	Sen. Dwyer	Continues testimony. Comments that this law cannot work without programs.
110	Chair Minnis	I think you just pointed out every reason why I voted against SB 1145. Discusses the -4 amendments to HB 3643.
118	Sen. Dwyer	You have to get the people selling drugs to minors. Discusses that possession should be related to driving suspension or revocation.
143	Sen. Stull	Announces that the Senate Crime and Corrections Committee has another hearing in Hearing Room B at 5:15 p.m. Apologizes that members of the committee have been leaving the room, and explains that the members have other obligations.
160	George Eighmey	State Representative, District 14 Submits proposed amendments (-3) to HB 3643 (EXHIBIT I) . Comments that he doesn't want to include medical patients in the bill.
191	K.L. Hill	Resident of Eugene, Oregon, infected with chronic disease at Sacred Heart Hospital, England Discusses the disease and symptoms and how marijuana helps the disease.
265	Hill	Continues testimony.

315	Hill	Continues testimony.
365	Hill	Continues testimony. Comments that she would be for the bill, if she believed it would help youth. Discusses why she believes it won't, as well as other concerns.
396	Chair Minnis	Declares subcommittee recessed at 3:30 p.m. until 5:30 p.m.
400	Sen. Stull	Declares Senate Crime and Corrections adjourned at 3:30 p.m.
401	Chair Minnis	Reconvenes at 5:32 p.m.
410	D. Paul Stanford	Resident Multnomah County Testifies in opposition to HB 3643 and SB 636. Submits and discusses informational articles and written testimony (EXHIBIT J) . Suggests forwarding the bills to Ways and Means, so true costs can be assessed.
TAPE 77, A		
001	Stanford	Continues testimony.
051	Stanford	Continues testimony.
085	Lester Hood	Senior Citizen of Multnomah County Testifies in opposition to HB 3643. This is a budget-busting bill. Comments that the bill doesn't define itself as a children's bill and that more people will end up on the streets because of the bill. Discusses his opportunities, involving teaching of kids, after they have come out of the system. Comments that money should be put into schools.
141	Edward Glick	Registered Nurse Comments that he wanted to give the committee a perspective of a health professional. Comments that legal behaviors, such as alcohol, tobacco, and violence, are inflicting a toll on the country. I have never heard of anyone dying from marijuana use. These bill is a cynical way to sidestep real issues such as full prisons and a pushed-back education system. Discusses amendments proposed by Rep. Eighmey (EXHIBIT I) .
185	Glick	Continues testimony. The US has a lot of serious problems, such as the highest rate of violent death in the industrial world. Fifty years of punishment has not been effective; it only creates cycles of dependence. Cigarettes kill; marijuana does not.
235	Glick	Continues testimony. There is no way to incarcerate people out of drug problem. Marijuana prohibition will not decrease drug use.
278	Chair Minnis	Do you think marijuana can be a gateway drug?
280	Glick	Probably.
281	Chair Minnis	Do you think it is addictive?
		No. I think there is a potential for dependence, but there is a difference

282	Glick	between dependence and addiction.
285	Chair Minnis	You made a statement earlier that prisons are full of nonviolent people. Do you think sex offenders are nonviolent?
287	Glick	I think sex offenders are violent because they create pain and destruction.
289	Chair Minnis	You made another comment about availability of drugs in prison. Do you have a basis for that statement?
290	Glick	It's conjecture based on reading that I cannot cite.
305	Daniel Carl	Lane County Resident Comments that all members had to take an oath of office. Who here believes that oath is relevant at this hearing and in discussing these bills?
310	Chair Minnis	We're all sworn to uphold the Constitution, and I feel it's relevant here.
312	Carl	What is the enabling clause in the Oregon Constitution that make this law in pursuance of? What's the authority from the constitution to be able to legislate a bill such as this? You all have sworn, so I would hope that there is something that would enable you to do this. ORS 475.005 is misapplied on a daily basis. You cannot legislate those you didn't create.
360	Carl	Continues testimony. Discusses republican versus democratic government. We have a republic not a democracy. This is a political issue, and I'm appalled that this is being called criminal. In order for there to be a crime, someone needs to be a victim; someone gets harmed.
400	Chair Minnis	Is it your assumption that children would not be damaged by using marijuana?
402	Carl	Not if that child needed it for medicinal purposes. I have found no evidence that shows it is toxic; there is no lethal dose. Discusses a 1942 4-H Club project.
411	Chair Minnis	No one on this committee will deny that hemp has some legitimate use or purpose. Abuse comes from two words: abnormal and use. We are talking about abuse here, abnormal use, not legitimate use.
413	Carl	What if I were to use it as part of my religion?
415	Chair Minnis	If the law recognizes your religion and the use of marijuana in that religion, I don't think you'd have a problem. We are not talking about that here. I don't know of any religion that uses it as part of the religion.
TAPE 76, B		
025	Carl	Well, my conscious is my religion. I'm appalled that this bill came up and that the medical marijuana bill is being suppressed.
032	Chair Minnis	If the FDA approved cannabis for use in a medicinal environment, I would be supportive.
033	Carl	What happened to liberty? Why do we need some agency to tell us what we can use?

054	Charles Hodge	Pastor, Haag Home for Boys Testifies in favor of HB 3643 and SB 636. Comments that he is in support of the bills because they allow use of a tool to catch abuse early. This would let kids be kids and would let us do job of protecting them. Many of the kids I deal with have failed parents. Comments that society says, "If it feels good, do it."
104	Hodge	Continues testimony. I understand this will add to expense, but there are benefits, if we catch them now. Marijuana is a gateway drug. Discusses why loss of license should be a good deterrent.
156	Rep. Bowman	How many of these kids, that you work with, have been guilty and charged with marijuana possession?
158	Hodge	I would have to say about 25 percent; some have plead down.
159	Rep. Bowman	How many young people have been convicted under current law?
160	Hodge	None that I know of.
161	Rep. Bowman	So, we currently have a law in a book that says that marijuana is illegal, and if you are caught with it, you are fined, but these youth, that you work with, have never been charged with marijuana possession. Is that correct?
163	Hodge	By the time they get to us, the only record we see is the "holdable" offense, which is not, usually, the actual drug use. As far as the number of kids that have been fined, that I cannot answer.
179	Rep. Bowman	Do you feel that if those kids had been charged with marijuana possession, under current law, their behaviors would have changed?
181	Hodge	In some cases, possibly. One child has said, "It ain't nothing." In other words, just the fine was not a reason not to do it.
194	Rep. Bowman	Are you aware that, under HB 3643, a first fine offense is still only a \$500 to \$1,000 fine? The second offense requires some type of diversion, with a potential of loss of driver license. Do you think this would be a deterrent?
200	Chair Minnis	Clarifies the part of bill Rep. Bowman referred to.
202	Hodge	While I would like to see the penalty for a first offense be a little stiffer, I do believe that knowing a second offense would come with severe consequences, they would probably choose not to continue use of marijuana.
225	Rep. Bowman	What about those who drive without a license?
227	Chair Minnis	The assumption I have, when you're doing with juveniles, when there's a severe enough consequence, it seems a good opportunity to turn their behavior around.
230	Hodge	Regarding the adult populace and this bill, if an adult chooses to put themselves, their job, etc. in jeopardy, "God save their soul." If those things are not enough, I don't know what will stop them. We can't keep people from doing things, so we have to provide consequences, and I think

		the consequences within the bills are reasonable.
254	Rep. Prozanski	Would you consider tobacco and alcohol to be gateway drugs?
256	Hodge	Certainly.
257	Rep. Prozanski	Do you think there should be equal treatment regarding punishment of alcohol and tobacco?
258	Hodge	In a perfect world, yes, but both alcohol and cigarettes are legal for the adult population. I don't see how we can do that.
265	Rep. Prozanski	Do you believe we should be getting that message across somehow? Do you think maybe we should increase fines for alcohol and tobacco?
272	Hodge	That may do some good, and I do think we should look at the big picture. However, a fine is usually paid by the parents. I think we have to consider putting other things in the law that would allow children to take responsibility for themselves.
289	Rep. Prozanski	Regarding other narcotics and drugs, drugs with felony sanctions, why would children, knowing those offenses, continue to get involved with that type of drug use?
296	Hodge	It's been my experience that "crystal meth" is the second most popular drug (after marijuana). Usually, crystal meth is not used until the child has already experimented with breaking the law.
326	Chair Minnis	I'm going to try to constrain this to controlled substances as defined by ORS 475.005. This bill does not deal with alcohol or tobacco.
330	Rep. Prozanski	Maybe it should.
332	Chair Minnis	You couldn't put those in here if you wanted to. They don't come under the relating clause of the bill.
352	Dale Penn	Oregon District Attorneys Association (ODAA) The ODAA believes the bill has two main goals, which are important to consider: message to youth and consistent interpretation of search and seizure law. Discusses whether more than an ounce of marijuana should warrant search and seizure? Discusses differences between today and 25 years ago. Suggests that less than one-eighth of an ounce be a violation. Last session we put into law that marijuana is contraband and should be banned in prisons.
402	Penn	Continues testimony. This bill has no impact on prison beds. We don't believe that the fiscal impact would be anywhere near \$1 million.
TAPE 77, B		
026	Rep. Bowman	How many people have you prosecuted, over the last year, for marijuana possession of less than an ounce?
027	Penn	Many -- both juvenile and adult. Because it is a violation, my office would primarily be involved with filing the complaint and reviewing reports. This shouldn't expand caseload. I think the bill will just take violations that are

		there and make them criminal.
037	Rep. Bowman	I just want a round figure; I won't hold you to it.
039	Penn	I could tell you if I were back in my office. We see maybe 500 or 600 adult cases, maybe more, but I don't know about juveniles.
043	Rep. Bowman	These people paid between \$500 and \$1,000.
045	Penn	Not always. Fees are often waived.
054	Rep. Prozanski	What is your experience with current diversion for marijuana?
056	Penn	I'm not aware of a diversion program in Marion County. Discusses what the statute talks about.
066	Rep. Prozanski	Do you understand that this would make each and every offense a crime?
067	Penn	Discusses misdemeanors, under current law, and a Senate bill, relating to the issues at hand.
070	Chair Minnis	Do you know of people being fined less than \$500?
071	Penn	Yes. Discusses situations where that could be the case.
075	Chair Minnis	I think it would be interesting to see if the court is disregarding the law.
076	Rep. Prozanski	Discusses charges, minimum mandatory, and the ability for a defendant to pay.
100	Kelly Taylor	Oregon Department of Transportation (ODOT) Submits and summarizes written testimony (EXHIBIT K).
139	Chair Minnis	Quotes section 37 of the bill.
142	Kelly Taylor	I would not be able to uphold it after they've had their administrative review because ORS 809.440 will allow them the defense that the conviction did not involve a motor vehicle. They will get out of it.
145	Chair Minnis	I don't know how they're getting out of it.
146	Kelly Taylor	Discusses ORS 809.440.
154	Rep. Shetterly	How is that created under current statute? Is there no administrative review? What happens there?
155	Kelly Taylor	We used to deal with administrative review by administrative rule. We had the words "if applicable" for convictions, and when it got put into statute, "if applicable" got dropped, so we have had some problems with this.
159	Chair Minnis	How long have you known about this?
	Kelly	I just found out today. Discusses false application of license and problems

160	Taylor	that ODOT has, relevant to the discussion.
176	Chair Minnis	Where was the "if applicable" language?
177	Kelly Taylor	It used to be in administrative rule.
180	Chair Minnis	What got moved to statute?
181	Kelly Taylor	The language from the administrative rule about what is contained in an administrative review.
190	Rep. Shetterly	Where did "if applicable" come in?
194	Taylor	I'm not sure I can answer that.
195	Rep. Shetterly	It's a long statute; it could have been in a lot of places.
200	Taylor	Explains why she believes this has become complicated.
205	Rep. Sunseri	If someone is stopped for driving while suspended, is the car towed immediately?
206	Taylor	No.
207	Rep. Bowman	You're the first person that has said the suspension of driving privileges already exists under current law. If we already have this law, is there a reason we need another one?
213	Taylor	The new part I see in this bill is the diversion section.
215	Rep. Bowman	It sounds like we need a bill for diversion programs.
216	Taylor	These bills talk about suspending licenses upon second offense, but there are already laws allowing suspension on the first.
229	Chair Minnis	Supposedly, where the bill is getting tougher is in section 37, where it says that the license "shall" be suspended.
234	Taylor	The language already says "shall."
242	Rep. Bowman	Is it possible to identify, out of the 5,000 people who have had their licenses suspended under ORS 809.260, who was convicted for what drugs?
247	Taylor	No. That's not a part of our record.
250	Rep. Bowman	It does my heart good to know that we don't need new laws that are already covered.
251	Taylor	Our estimated costs would be \$56,000, under these bills. However, the amendments I am suggesting would bring down that amount.
253	Chair Minnis	Your cost would be \$56,000 for something you are already doing.
255	Taylor	It includes time to deal with a conviction that we aren't supposed to be putting on the record, but somehow keeping track of, and using as a basis

		for suspension.
261	Chair Minnis	If you're referring to the part involving the APA, wouldn't that reduce your costs?
262	Taylor	Yes, and those costs aren't reflected in this amount.
270	Rep. Shetterly	Reads aloud parts of the previously discussed ORS chapters.
285	Chair Minnis	Can we find out who drafted this?
310	Michael Howden	Oregon Center for Family Policy Submits and reads aloud written testimony in support of HB 3643 (EXHIBIT L).
360	Howden	Continues testimony.
TAPE 78, A		
025	John English	Resident of Eugene, Oregon and former drug user Submits and discusses written testimony in favor of HB 3643 (EXHIBIT M).
075	English	Continues testimony.
125	English	Continues testimony.
153	Nicholas Warne	Student, University of Oregon and resident of Eugene, Oregon Testifies in opposition to HB 3643. I am not here to support legalization of drugs, but I feel that this legislation would make criminals out of generally law abiding citizens who occasionally use marijuana in a social or medical setting. I don't believe that these bills will stop teen drug use. I believe that we should fight to stop drug use, but the drug war needs to be fought in our homes, not through legislation. Discusses fiscal impacts. Comments that the bills are simply a "Band-Aid" covering a much larger amount of problems.
205	Warne	Continues testimony.
227	Rep. Bowman	As someone who has been around people, who smoke marijuana, do you believe taking a driver's license away would be a deterrent for those who smoke marijuana?
230	Warne	No.
232	Rep. Bowman	What do you believe that we, as lawmakers, should be doing to deter young people from using drugs and alcohol?
233	Warne	I believe the drug fight starts at home. As policy makers, you should be focusing on building families and letting families make the right decisions.
236	Rep. Bowman	Do you believe education is the key?
237	Warne	Yes.
250	Chair Minnis	Do you think there is a relationship between alcohol abuse and domestic violence?

251	Warne	Yes.
252	Chair Minnis	Alcohol abuse and child abuse?
253	Warne	Yes.
254	Chair Minnis	Alcohol and drug abuse?
255	Warne	It depends on what drug you're talking about.
262	Chair Minnis	Have you seen any demographic relative to any research?
263	Warne	Not that I can cite.
264	Chair Minnis	How about domestic violence and drug abuse?
265	Warne	Domestic violence and marijuana use, or drug use?
266	Chair Minnis	I guess you could separate it, if you choose.
267	Warne	I would do that because drugs, like cocaine, are going to bring out behaviors that would be detrimental to the home.
268	Chair Minnis	How about "ty stick," is that different than marijuana?
269	Warne	Ty stick is laced with opium.
270	Chair Minnis	Is that very popular any more?
271	Warne	No, I haven't seen it around.
272	Rep. Bowman	How easy is it to get drugs on the University of Oregon campus?
273	Warne	I live about five blocks from campus, and on the way, I could probably purchase any drug that I wanted to.
280	William House	Cannabis Liberation Society, Secretary Discusses the Society's and his opposition to the criminalization of cannabis. If you keep up this drug war, it's going to "bust your budget." Compares and discusses both alcohol and marijuana use, while driving a vehicle.
318	Chair Minnis	What about the THC content?
319	House	Industrial hemp has no THC content, and some hemp has been cultivated for THC content. There are various THC contents out there right now.
323	Chair Minnis	Does the price tend to correspond with the THC content?
325	House	Comments that prohibition is the gateway. People sell drugs to get money. Discusses alcohol prohibition and the "drug war."
350	Chair Minnis	Where did you get those facts?

351	House	They are national facts. I also get them from the Cascadia Hemp News and the internet.
353	Chair Minnis	Where did you go to school? Are you still in college?
355	House	No, I'm 31; I'm not in school right now.
356	Chair Minnis	Did you go to the University of Oregon?
358	House	No. I believe that the internet is a great educational resource, and it taught me more than the government school system, at least about what is really going on. I don't know how you think you are going to send people to diversion programs, try to brain-wash them, and have taxpayers pay for all of it, when what we really need to do is respect each other's individual liberties.
400	Chair Minnis	Do I believe that children should have unrestrained access to marijuana?
401	House	I believe that is the choice of the parents. Government is trying to become parents by throwing all these kids in detention homes. If you think these kids are going to come out of those homes respecting you, that's just not true. Everyone in this room is on drugs: obesity and cigarettes kill more people every year. Marijuana does not cause violence, but your law does.
TAPE 79, A		
001	House	Continues testimony. Makes reference to quantity and price of marijuana, while discussing a hypothetical.
030	Chair Minnis	Would that be less than an ounce or more than an ounce, that \$300 or \$400 amount you are talking about.?
032	House	Well, an eighth is \$50.
035	Chair Minnis	So, it's about \$400 an ounce. Is that for average quality or home-grown marijuana?
038	House	In the underground market, there is no quality, and that is especially important when harder drugs are involved. A lot of people die because there is no quality control.
045	Chair Minnis	Have you known anyone who has died because of marijuana?
046	House	No.
047	Chair Minnis	Maybe of tar heroin.
048	House	Well, tar heroin has a lot to do with the fact that they mix it with alcohol, other drugs, and cocaine.
050	Chair Minnis	Have you ever seen a tar heroin overdose?

051	House	No, I haven't. Throwing everyone in jail creates more harm.
053	Chair Minnis	I appreciate the fact that you are nonviolent and that you've come here to share with us today.
054	House	Well, that's my focus. You're law is creating violence.
056	Rep. Wells	Where do most people get the money to buy these drugs?
059	House	They work. The stereotype that drug users don't work is another complete lie.
060	Rep. Wells	How much money do they spend per day on drugs? What's the average cost of marijuana?
062	House	It varies with people. I would say the average person spends \$50 for an eighth, and all that money is going to the underground economy. Discusses legalization for personal cultivation.
070	Chief Elkins	Tells his story of first-hand involvement with drugs in his family.
120	Chief Elkins	Continues testimony. Comments about advocating drug treatment.
130	Rep. Bowman	Do you currently issue citations to people for the possession of marijuana?
165	Elkins	Yes, we do.
167	Rep. Bowman	Have you reissued a citation to these people?
168	Elkins	Yes. That's one of the problems with the law now. There is no deterrent value at all.
172	Rep. Bowman	We heard testimony earlier that there is a law to suspend an offender's driver license. Have you used that at all?
174	Elkins	I have yet to see it used in my career.
175	Rep. Bowman	If we have the same penalties now: fines, license suspension, etc., what makes you think this bill is going to do any better?
176	Elkins	Children know that possession of marijuana is the same as a traffic violation. I think we are sending a bad message to our kids. Discusses why he believes the bill won't crowd jails.
HB 3643 - WORK SESSION		
227	Rep. Sunseri	MOTION: Moves to ADOPT HB 3643-1 amendments (EXHIBIT N) dated 4/7/97.
		VOTE: 6 - 1 - 0

		AYE: 6 - Rep. Courtney, Rep. Prozanski, Rep. Shetterly, Rep. Sunseri, Rep. Wells, Chair Minnis NAY: 1 - Rep. Bowman
230	Chair Minnis	The motion Carries.
233	Rep. Sunseri	MOTION: Moves to ADOPT the amendments, offered by the Oregon Department of Transportation (EXHIBIT O), to HB 3643.
237	Taylor	Discusses conceptual amendments to HB 3643.
240	Rep. Shetterly	I'm not why we even need that sentence (first sentence, EXHIBIT O) in this bill. It seems to counter existing statute, which requires notice, even on a first conviction. I'd rather take it out than clean it up, if we don't need it.
248	Taylor	I agree with you, and that was the point of part of my testimony. I don't know if we need this or not.
260	Chair Minnis	Does current statute say that, when someone is convicted of marijuana possession, they "shall" send notice to ODOT?
269	Taylor	Yes. Cites and reads aloud parts of ORS 809.260. It seems it should be broad enough to cover possession of marijuana.
278	Chair Minnis	Rep. Shetterly, is that your opinion?
281	Rep. Shetterly	Yes, but it's the first time I've seen it.
285	Taylor	Cites and reads aloud parts of ORS 809.265. Last year we received about 1,300 notices, under ORS 809.260, and last year we received about 3,700, under ORS 809.265.
293	Lumsden	Discusses differences between language of the bill and language of the ORS chapters. Under current statute, the court does not have to suspend the driver's license, if it finds compelling circumstances not to do so.
300	Taylor	I believe the origin of ORS 809.265 comes from a federal mandate.
311	Chair Minnis	Counsel is right: one is permissive and the other one is not.
312	Taylor	You right, unless they find it not compelling.
313	Chair Minnis	So, your reasoning for putting this language in here would be to make it compulsory.
315	Rep. Shetterly	It's still not quite square in the case of juveniles.
317	Rep. Sunseri	These are only conceptual amendments, so if there is some question about that, we can address it before the bill comes before the full committee.
320	Chair Minnis	I think it is fairly substantial. Rep. Shetterly, what is your concern?

324	Rep. Shetterly	I just think we have two different consequences in two different statutes. Discusses ORS 809.260 and ORS 809.265. This bill would add a third part.
364	Rep. Prozanski	Comments that the committee should know exactly what is in current law and what needs to be added before moving forward.
367	Chair Minnis	Okay. Let's go over it. What's already in the statute?
370	Taylor	Well, what is in the statute, as far as drug related suspension, are ORS 809.260 and ORS 809.265, which we have been talking about.
371	Chair Minnis	What does ORS 809.260 deal with?
372	Taylor	Juveniles between 13 and 17.
373	Chair Minnis	Under what circumstances?
374	Taylor	Cites the statute.
375	Chair Minnis	And, this is permissive.
376	Taylor	No, it is not. Cites the statute.
377	Lumsden	Upon unsuccessful completion of the diversion program, how would that statute suspend a juvenile's license?
381	Taylor	That was the point of my testimony. That is the one new piece; it doesn't exist in current statute. I think you're already covered on the suspension. If you don't move this bill today, I can go back and research why there is permissive language in ORS 809.265.
394	Chair Minnis	I don't care where it came from. I want to know what the law says now, and the committee can make a decision with respect to what the state's policy should be.
395	Taylor	Under juveniles, it is not permissive. They're supposed to, 100 percent of the time, suspend their driving privileges.
396	Chair Minnis	Counsel asked a question about completion of the diversion program.
397	Taylor	That would be something new. We do not have that in statute today, to my knowledge.
398	Chair Minnis	So, we need the language relevant to the non-completion of the diversion program and the notice sent to ODOT.
400	Taylor	Yes, that is something new.
413	Chair Minnis	Announces a five minute recess.
TAPE 78, B		

003	Chair Minnis	Reconvenes.
005	Rep. Sunseri	MOTION: Moves to withdraw the motion to adopt the conceptual amendments to HB 3643 (submitted by ODOT).
		VOTE: 7-0-0
007	Chair Minnis	Hearing no objection, declares the motion CARRIED.
009	Chair Minnis	I think we will bring this back on Thursday. Due to the narrowness of the "relating to clause," we may have to use a different instrument.
015	Rep. Prozanski	Comments that K.L. Hill, a constituent of his, felt that she was not given adequate time to testify.
026	Chair Minnis	She testified for about 10 minutes, and it is part of the record. If she would like to say something more, I would be glad to accept any written testimony from her.
030	Chair Minnis	Adjourns the meeting.

Transcribed by, Reviewed by,

Lisa Fritz, Scott Lumsden,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 3643 and SB 636, written testimony, Anthony Dean, Prevention Coordinator for the North Clackamas School District, 6 pages.

B - HB 3643 and SB 636, written testimony, Lt. Ed Mouery, Drug Enforcement Section Commander of the Oregon State Police, 8 pages.

C - HB 3643 and SB 636, written testimony and proposed amendments to HB 3643, Sgt. Al Bathke, Forensic Services Division of the Oregon State Police, General Headquarters, Salem, Oregon, 4 pages.

D - HB 3643, written testimony, Eric Martin, Addiction Counselor, 47 pages.

E - HB 3643, written testimony, Nathaniel Crissman, RDI Youth Coalition Member, 1 page.

F - HB 3643, written testimony, John Powers, RDI Youth Coalition Member, 3 pages.

G - HB 3643, written testimony, Nichole Mills, RDI Youth Coalition Member, 2 pages.

H - HB 3643, proposed amendments (-4), Sen. Bill Dwyer, District 21, 2 pages.

I - HB 3643, proposed amendments (-3), Rep. George Eighmey, District 14, 3 pages.

J - HB 3643, written testimony, D. Paul Stanford, resident of Multnomah County, Director of CRRH, 6 pages.

K - HB 3643 and SB 636, written testimony, Kelly Taylor, ODOT, 1 page.

L - HB 3643, written testimony, Michael Howden, Oregon Center for Family Policy, 3 pages.

M - HB 3643, John English, resident of Eugene, Oregon, 4 pages.

N - HB 3643, proposed amendments (-1), Legislative Counsel, 2 pages.

O - HB 3643, proposed amendments, Kelly Taylor, ODOT, 1 page.