

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CRIMINAL LAW**

**April 22, 1997 Hearing Room 357**

**1:00 PM Tapes 94 - 96**

**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 2685 - Public Hearing HB 2815 - Public Hearing**

**HB 3332 - Public Hearing HB 2706 - Public Hearing**

**HB 3598 - Public Hearing HB 3393 - Public Hearing**

**HB 3614 - Public Hearing HB 3565 - Public Hearing**

**HB 3672 - Public Hearing HB 3574 - Public Hearing**

**HB 3706 - Public Hearing HB 2161 - Public Hearing**

**HB 3622 - Public Hearing HB 2405 - 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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<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 94, A</b>		
005	Chair Minnis	Calls subcommittee to order at 1:10 p.m.
<b>HB 2685 - PUBLIC HEARING</b>		
014	Michael Cape	Intern for Rep. Van Leeuwen, District 37. Submits and discusses written testimony ( <b>EXHIBIT A</b> ).
033	David Fidanque	Executive Director, American Civil Liberties Union of Oregon (ACLU) Testifies in opposition to HB 2685. Discusses HJR 16, as it relates to HB 2685. Suggests deletion of section two. In general, we feel it is bad to short-circuit the ballot title process.
060	Chair Minnis	Closes public hearing on HB 2685.
<b>HB 2706 - PUBLIC HEARING</b>		
077	Sen. Jeannette Hamby	State Senator, District five Testifies in support of HB 2706.
087	Scott Taylor	Assistant Director for Community Corrections, Oregon Department of Corrections (DOC) Submits and discusses written testimony regarding HB 2706 ( <b>EXHIBIT B</b> ).
120	Michael Cape	Intern for Rep. Van Leeuwen, District 37 Submits and discusses written testimony in support of HB 2706 ( <b>EXHIBIT C</b> ).
136	Chair Minnis	Closes public hearing on HB 2706.
<b>HB 3332 - PUBLIC HEARING</b>		
141	Rep. Margaret Carter	State Representative, District 18 Submits and discusses written testimony regarding HB 3332 ( <b>EXHIBIT D</b> ). Submits and discusses proposed amendments (-3 dated 4/4/97) to HB 3332 ( <b>EXHIBIT E</b> ).
193	Lieutenant Mike Bell	Portland Police Bureau Testifies on behalf of Chief Charles Moose in support of HB 3332. Comments that the bureau supports the concept of asset forfeiture. Discusses current statutes, as they related to the issues at hand.

212	Chair Minnis	What is the reference?
213	Lt. Bell	ORS 166.220.
245	Chair Minnis	Closes public hearing on HB 3332.
<b>HB 3672 - PUBLIC HEARING</b>		
243	Chair Minnis	Opens public hearing on HB 3672
247	Sen. Jeannette Hamby	State Senator, District five Testifies in support of HB 3672. Discusses medication, as it relates to the bill.
263	Rep. Bowman	Sexual predators usually commit crimes involving violence and control; sex drive isn't really the issue. Why would we relate the two?
265	Sen. Hamby	Responds that she is not prepared to answer that question today.
291	Scott Taylor	Assistant Director for Community Corrections, DOC Submits and discusses written testimony regarding HB 3672 <b>(EXHIBIT F)</b>
342	Kurt Schrader	State Representative, District 23 Testifies in favor of HB 3672. Comments that one incident of recidivism is one too many. Comments that the proposed method is easy and would save money. Comments that changing hormone status does alter behavior.
389	Sen. Hamby	Responds to DOC's concerns that treatment may not be appropriate for all individuals.
422	Chair Minnis	Suggests the three work together to come up with some consensus amendments. Closes public hearing on HB 3672.
<b>HB 3332 - PUBLIC HEARING (REOPENED)</b>		
435	Rep. Margaret Carter	State Representative, District 18 Comments that she will accept the friendly amendments of Lt. Mike Bell.
<b>TAPE 95, A</b>		
018	Tim Travis	Juvenile Rights Project, Multnomah County Submits and discusses data related to drive-by shootings <b>(EXHIBIT G)</b> .
042	Rep. Sunseri	What is the deterrent for confiscating a car that has less than a \$1,000 value?

044	Travis	I've done some research on this because oftentimes, kids steal cars to do drive-by shootings. However, there are those who use their own car or a "brother gang member's" car. These cars are also used as getaway cars in robberies.
056	Rep. Carter	These kids like these old cars, and they buy them to fix up. They may be old, but some of them are worth a lot of money.
054	Lt. Bell	It is part of their culture: having a nice car.
061	Travis	Young boys are young boys; they love cars. They would rather spend time in jail than lose their car.
073	Rep. Wells	Is conviction covered in ORS chapter 791?
090	Lt. Bell	Discusses forfeiture. Our city code authorizes forfeiture. We've never had these cases go to court.
103	Rep. Bowman	The numbers you gave out, regarding gang affiliation throughout the state of Oregon, are those after the lawsuit?
104	Travis	My understanding is that these are 1996 numbers, and the lawsuit was before 1996.
105	Lt. Bell	The lawsuit dealt with the agreement with the Portland Police Bureau, and did not, necessarily, affect what the Oregon State Police do. It looks like a combination of numbers.
122	John Nichols	Oregon Gun Owners We support this bill as drafters of the original drive-by shooting bill.
124	Chair Minnis	Closes public hearing on HB 3332.
<b><u>HB 3393 - PUBLIC HEARING</u></b>		
140	Larry Christianson	Oregon Department of Transportation (ODOT) Submits and summarizes written testimony ( <b>EXHIBIT H</b> ).
161	Chair Minnis	Closes public hearing on HB 3393.
<b><u>HB 2161 - PUBLIC HEARING</u></b>		
168	Jim Lockwood	DOC We do not yet have the amendments prepared. Comments that the bill is vehicle of preference to implement changes that will come about after the May 20, 1997 election, regarding inmate work programs.
180	Chair Minnis	Closes public hearing on HB 2161.
<b><u>HB 2405 - PUBLIC HEARING</u></b>		

185	Rep. Jo Ann Bowman	State Representative, District 19 Discusses and testifies in favor of HB 2405.
190	Chair Minnis	What was your motivation for the introduction of the bill?
191	Rep. Bowman	Every year, in Oregon, hundreds of kids are killed or injured by handguns, and the handguns are usually kept at home, in an environment that is not secure. Young people have easy access to guns. I am concerned about this. I am not anti-gun; I am pro-child.
203	John Nichols	Oregon Gun Owners Supportive of HB 2405's concept. We do have some problems: a civil fine and forfeiture might be a better way to go. This could also be a vehicle to stimulate defense safety education, and we would be happy to work with the sponsor of the bill to alleviate some of our concerns.
212	Justin Burns	Oregon Gun Owners With civil penalties, this would be a great motivator for safe gun storage in homes.
218	Rep. Prozanski	Are we talking about treating this as a violation with no criminal sanctions, where there would be no jail time, etc., but there would still be some type of fine that would be imposed? Who would be trying these types of cases?
223	Nichols	Yes, we assume some civil fine would be imposed, but we haven't gotten as far as deciding how this could be handled. We anticipate that there would be a fine and forfeiture.
226	Jim Lace, MD	Pediatrician, Oregon Medical Association Submits and discusses written testimony in support of HB 2405 ( <b>EXHIBIT I</b> ).
300	Dr. Lace	Continues testimony.
301	Chair Minnis	You mentioned fatalities; what about injuries?
305	Dr. Lace	There's about a four to one ratio of children who are injured by guns as opposed to those who die from guns.
330	Sen. Kate Brown	State Senator, District seven Submits written testimony in favor of HB 2405 ( <b>EXHIBIT J</b> ).
357	Doug Berry	Legislative Assistant to Sen. Avel Gordly, District 10 Reads aloud Sen. Gordly's written testimony ( <b>EXHIBIT K</b> ).
391	Rep. Wells	There doesn't seem to be any type of a separation between pistols and shotguns. Why? It seems pistols are the main problem.
407	Sen. Brown	They all kill children, which is why they are included in this bill.
416	Berry	I believe the young man in Waldport was shot with a .22 rifle.
<b>TAPE 94, B</b>		
		National Rifle Association Testifies in opposition to HB 2405. If

017	Rod Harder	there are criminal sanctions, there may be some constitutional problems. Opposes mandatory storage proposals, but supports HJM 2. Urges the subcommittee not to pass "feel good" legislation but to promote education. Comments that he will be willing to work with groups.
036	Rep. Prozanski	Others have said that the bill may be used to serve civil, rather than criminal, sanctions.
038	Harder	That is exactly why I emphasized our opposition to the criminal sanctions.
039	Rep. Sunseri	If someone is walking through the front door with a gun, how long would it take you to get the key and open your gun, if it were locked up?
044	Harder	I can't speak for everyone, but I believe you are at a distinct disadvantage, if your weapons are locked up.
048	Rep. Bowman	What do you think appropriate gun storage is?
049	Harder	It depends on the situation. In my home, they are treated with a great deal of respect. Discusses storage of his guns, based on different situations.
053	Rep. Bowman	You sound like a responsible gun owner, so for you, this bill would not apply, but there are those who are not responsible. Gives an example. Discusses a Salem incident involving 14-year-olds and guns. What should the consequences be for that parent?
067	Harder	That is a difficult question. I would not look for a criminal penalty for that individual. I would criticize him/her, but I would not want to criminalize everyone for that one parent's irresponsibility.
073	Rep. Bowman	What would have happened if that 14-year-old would have died because of the gun his peers obtained? Would your response still be the same?
074	Harder	I will again state that making criminals of all citizens because of one or two irresponsible people is not something I will support.
075	Rep. Bowman	So, you are not going to answer my question.
090	Laura Culberson	Oregon State Public Interest Research Group (OSPRIG), Consumer Advocate Submits and reads aloud written testimony in support of HB 2405 ( <b>EXHIBIT L</b> ).
128	Joanne Fairchild	Trauma Coordinator responsible for injury prevention at Legacy Emmanuel Hospital Submits and reviews graphic data ( <b>EXHIBIT M</b> ). Responsible parents will not be affected by this law.
172	Rep. Wells	Have you thought about "how secure is secure?" I would think that any child 12 and up would know where to find the key for a trigger lock.
173	Fairchild	Our recommendation to parents is that they wear keys on their bodies.

174	Rep. Wells	That could be, but that doesn't seem to be practical. It doesn't say that has to be done in the law. If a kid is determined to get a gun, they more than likely will find a way to do it.
184	Fairchild	We can make it extremely difficult for them to do so. Our trauma service sells a trigger lock that is a three button combination. We are selling them at cost. You don't have a key, you have a combination that you can change at any time.
197	Rep. Bowman	This bill does not require a gun lock, a box, or anything of that sort. The bill gives parents options, regarding discretion of how best to store their guns, so they aren't available to minors.
208	Grant Higginson, MD	State Health Officer, Oregon Department of Human Resources, Health Division Submits and reads aloud written testimony, from Elinor, C. Hall, MPH, Administrator of the Oregon Health Division, in favor of HB 2405 ( <b>EXHIBIT N</b> ).
252	Rep. Wells	We have irresponsible kids and then we have kids who intend to kill. How tight or secure can we make laws to deter a child from obtaining a gun, if he/she really wants to?
257	Dr. Higginson	There are some kids who will get a gun no matter what. This bill talks about "reasonable precautions." If you have taken "reasonable precautions," you will not be liable.
274	Chair Minnis	Closes public hearing on HB 2405.
<b><u>HB 2815 - PUBLIC HEARING</u></b>		
300	Rep. Peter Courtney	State Representative, District 33 Submits and summarizes written testimony and informational materials in favor of HB 2815 ( <b>EXHIBIT O</b> ).
330	Sgt. Mark Cotter	Patrol Services Division, Oregon State Police Submits and summarizes written testimony in support of HB 2815 ( <b>EXHIBIT P</b> ).
348	Ed Marges	Transportation Safety Section, ODOT Submits and summarizes written testimony ( <b>EXHIBIT Q</b> ).
<b><u>HB 3706 - PUBLIC HEARING</u></b>		
385	Bryan Johnston	State Representative, District 31 Comments that HB 3706 was introduced on behalf of a constituent, who was not able to attend. Discusses HB 3706.
396	Chair Minnis	It looks like it is consistent with the marijuana bill that we will be seeing soon.

415	Chair Minnis	Closes public hearing on HB 3706.
<b>HB 3598 - PUBLIC HEARING</b>		
<b>TAPE 95, B</b>		
020	Al Chandler	Assistant Director of the Institutions Division, DOC Submits and summarizes written testimony ( <b>EXHIBIT R</b> ).
025	Rep. Prozanski	What are special investigators?
026	Chandler	Special investigations officers are part of our inspections unit.
028	Chair Minnis	So, you could support this with amendments.
029	Chandler	That's correct.
038	Mary Botkin	AFSCME Submits and summarizes written testimony ( <b>EXHIBIT S</b> ).
050	Chair Minnis	Is this consistent with the list that Al Chandler has?
052	Botkin	The only people on the list, not consistent with Al Chandler's list, are those who work in the visiting rooms, and that's where most of the contraband is passed. The work crews are also not on his list.
056	Chair Minnis	We are going to bring this back, so I would suggest working with the DOC before our next meeting
057	Botkin	We have been working with the DOC.
058	Chair Minnis	Keep on in "good faith," and we'll see where we get.
060	Chair Minnis	Closes public hearing on HB 3598.
<b>HB 3614 - PUBLIC HEARING</b>		
066	Floyd Prozanski	State Representative, District 40 Discusses HB 3614, which was initiated on behalf of field officers for the Eugene Department of Public Safety. This bill has basically been inserted into Senate bill (I believe) 493. I would just ask that we hear that bill when it gets here.
075	Chair Minnis	Closes public hearing on HB 3614.
<b>HB 3622 - PUBLIC HEARING</b>		
		State Representative, District 40 Discusses background and intent



080	Floyd Prozanski	of HB 3622. There is a problem with collecting parking fines, particularly in Portland, Oregon. Comments that he will be working with ODOT's Kelly Taylor to come up with some amendments in order to tighten the bill.
127	Rep. Wells	I like the bill. Are you talking about renewal of licenses for an individual or for the vehicle?
129	Rep. Prozanski	The individual.
130	Rep. Wells	Why not the vehicle?
133	Rep. Prozanski	The state of Washington does do that currently. The problem I have is that many of these vehicles are sold and traded very quickly, so the new owner would have these tickets follow them. Gives example.
144	Rep. Shetterly	Discusses section two of the bill.
150	Rep. Prozanski	Discusses how the process would occur, under the bill.
153	Rep. Shetterly	It sounds like the applicant would be responsible.
164	Rep. Prozanski	So, you're concern is for anyone walking through the door.
170	Rep. Shetterly	Yes. Gives an example.
172	Rep. Prozanski	That certainly was not the intent
174	Chair Minnis	Closes public hearing on HB 3622.
<b><u>HB 3574 - PUBLIC HEARING</u></b>		
180	Roberta L'Esperance	Legislative Assistant to Rep. Jane Lokan, District 25 Submits and reads aloud written testimony and hand-engrossed HB 3574 with - 1 amendments ( <b>EXHIBIT T</b> ).
193	Chair Minnis	What is the motivation for the bill?
195	L'Esperance	Rep. Lokan is concerned about addressing the issue of repeated acts of violence or assault and also about the fact that the law does not take any particular stance on whether or not these acts are committed in the presence of children. Rep. Lokan has a lot of information on this subject. Gives example.
209	Rep. Shetterly	Discusses a recent case relating to the issues at hand.
211	Chair Minnis	Isn't that in the language of "murder by abuse?"

213	Rep. Prozanski	We should look at that. There is a similar bill on the Senate side.
215	Rep. Shetterly	I can look into that further.
223	Chair Minnis	I think it had to do with a particular case. Discusses pattern of practice.
<b>HB 3565 - PUBLIC HEARING</b>		
250	Roberta L'Esperance	Legislative Assistant to Rep. Jane Lokan, District 25 Submits and summarizes written testimony and a hand-engrossed copy of HB 3565 with -1 amendments ( <b>EXHIBIT U</b> ).
273	Rep. Shetterly	Comments that he done some research, per Rep. Lokan's request. Discusses existing statutes, as they relate to the bill.
296	Rep. Bowman	The part about the landlord having to pay the fee, even though no chemicals were found, is that something that could possibly be addressed in this legislation?
298	Chair Minnis	It would fit in with the context.
303	L'Esperance	One of the reasons this bill was rewritten was because we worked with a number of people, who work a lot with landlords, and we learned a great deal through that process.
331	Ronald Hall	Oregon Department of Human Resources, Environmental Services and Consultation Section Submits and summarizes written testimony ( <b>EXHIBIT V</b> ).
358	Chair Minnis	Rep. Sunseri had this concern about a property owner, where there was no contamination, but the owners were still asked to clean up the property.
364	Rep. Sunseri	Six years after the incident, the person received a letter to clean up the property and to pay \$1,500. She sold the property; she kept it vacant for a year, trying to cooperate, and never heard anything beyond that.
370	Hall	I think we are talking about two different cases.
372	Chair Minnis	That may be, but it raises the issue of notice.
394	Hall	Can I explain the model format, so you will understand where the notice comes in?
395	Chair Minnis	Not at this point. I know there is a system in place. I'm just trying to figure out how this got past everyone.
399	Hall	Discusses processes involving notice and drug sites.
<b>TAPE 96, A</b>		

012	Hall	Continues testimony.
016	Chair Minnis	I don't know if that answers my question. I'd appreciate it if you would work with Rep. Sunseri to try to resolve this. I don't know if this is a situation where the city of Portland or some other municipal government would be involved. Do you let those folks do some portion of the program?
020	Hall	When a site is designated, it goes on an "unfit for use" list, and that's shared with local building authorities. The city generates the letter.
025	Chair Minnis	Declares subcommittee adjourned at 3:05 p.m.
		*Testimony submitted for the record, regarding HB 2815, for Peter Glazer, Chair of the Governor's Advisory Committee on Driving Under the Influence ( <b>EXHIBIT W</b> ).

Transcribed by, Reviewed by,

Lisa Fritz, Scott Lumsden,

Administrative Support Counsel

#### **EXHIBIT SUMMARY**

**A - HB 2685, written testimony, Michael Cape, intern for Rep. Liz VanLeeuwen, District 37, 1 page.**

**B - HB 2706, written testimony, Scott Taylor, Oregon Department of Corrections, 2 pages.**

**C - HB 2706, written testimony, Michael Cape, intern for Rep. Liz VanLeeuwen, District 37, 1 page.**

**D - HB 3332, written testimony, Rep. Margaret Carter, District 18, 3 pages.**

**E - HB 3332, proposed amendments (-3), Rep. Margaret Carter, District 18, 3 pages.**

**F - HB 3672, written testimony, Scott Taylor, Oregon Department of Corrections, 2 pages.**

**G - HB 3332, written testimony, Tim Travis, Juvenile Rights Project, 2 pages.**

**H - HB 3393, written testimony, Larry Christianson, Oregon Department of Transportation, 1 page.**

**I - HB 2405, written testimony, Dr. James Lace, physician, Oregon Medical Association, Oregon pediatric Society, 2 pages.**

**J - HB 2405, written testimony, Sen. Kate Brown, District seven, 2 pages.**

**K - HB 2405, written testimony, Michael Cape, legislative assistant to Sen. Avel Gordly, District**

**10, 3 pages.**

**L - HB 2405, written testimony, Laura Culberson, Oregon State Public Interest Research Group, 2 pages.**

**M - HB 2405, written testimony, Joanne Fairchild, Emmanuel Hospital, 6 pages.**

**N - HB 2405, written testimony, Dr. Grant Higginson, State Health Officer for the Oregon Health Division, 2 pages.**

**O - HB 2815, written testimony, Rep. Peter Courtney, District 33, 7 pages.**

**P - HB 2815, written testimony, Sgt. Mark Cotter, Oregon Department of State Police, 3 pages.**

**Q - HB 2815, written testimony, Edward Marges, Oregon Department of Transportation's Transportation Safety Section, 3 pages.**

**R - HB 3598, written testimony, Al Chandler, Oregon Department of Corrections, 1 page.**

**S - HB 3598, written testimony, Mary Botkin, AFSCME, Council 75, 1 page.**

**T - HB 3574, written testimony and proposed amendments (-1), Roberta L'Esperance, legislative assistant to Rep. Jane Lokan, District 25, 4 pages.**

**U - HB 3565, written testimony and proposed amendments (-1), Roberta L'Esperance, legislative assistant to Rep. Jane Lokan, District 25, 4 pages.**

**V - HB 3565, written testimony, Ronald Hall, Manager of the Environmental Services and Consultation Section of the Oregon Department of Human Resources Health Division.**

**W - HB 2815, written testimony, Debra Downey for Peter Glazer, Chair of the Governor's Advisory Committee on Driving Under the Influence.**