

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

May 22, 1997 Hearing Room 357

1:00 P.M. Tapes 126 - 127

MEMBERS PRESENT:

Rep. John Minnis, Chair

Rep. Jo Ann Bowman, Vice-Chair

Rep. Peter Courtney

Rep. Floyd Prozanski

Rep. Ron Sunseri

Rep. Larry Wells

MEMBER EXCUSED:

Rep. Lane Shetterly

STAFF PRESENT:

Scott Lumsden, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD:

HB 2726 Work Session

HB 3565 Work Session

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 126, A		
004	Chair Minnis	Convenes meeting at 1:19 PM and opens work session on HB 2726.
<u>HB 2726 - WORK</u>		

SESSION		
008	Rep. Prozanski	Submits and explains -6 amendments (EXHIBIT A) . Discusses need for amendments.
045	Chair Minnis	Discusses blood alcohol level (BAC) issues. Explains perceived bill impact.
050	Rep. Prozanski	Discusses bill impact.
058	Chair Minnis	Contrasts HB 2726 to SB 780.
064	Rep. Wells	Discusses perceived impact of HB 2726 passage in accordance with SB 780 passage.
070	Rep. Prozanski	Discusses perceived impact of HB 2726 passage in accordance with SB 780 passage. Discusses page 3, section 4 of -6 amendments.
105	Scott Lumsden	Committee Administrator submits and explains -7 amendments (EXHIBIT B) .
135	Rep. Wells	Asks when bill requires vehicle impoundment.
136	Rep. Prozanski	Discusses vehicle impoundment issues.
142	Rep. Bowman	Asks why, once the automobile has been sold and security interest have been paid, does the agency who made the arrest get the extra money.
158	Rep. Prozanski	Discusses page 4, line 5 of -6 amendments.
174	Rep. Bowman	States opposition to language on page 4, line 5 of -6 amendments.
190	Rep. Sunseri	States concern that bill is not equitable in penalties because of variable vehicle values.
200	Jeff Rost	Forensic Scientist, Oregon State Police. Submits written testimony (EXHIBIT C) and outlines concerns about HB 2726.
205	Rep. Courtney	Submits and explains -4 and -5 amendments (EXHIBIT D) .
212	Rost	Continues discussing HB 2726 and perceived impacts.
239	Rep. Prozanski	Asks how alcohol breathalyzer test numbers are converted into BAC levels.
235	Rost	Discusses technical aspects of breathalyzer tests and associated BAC levels.
268	Rep. Prozanski	Comments on BAC tests.
273	Rost	Explains BAC tests.
293	Rep. Wells	Asks why 2300:1 ratio is not being used.
295	Rost	States that 2300:1 ratio has been used for over 60 years and supported by governing bodies in the breath testing field.

318	Rep. Prozanski	Discusses technical aspects of BAC testing.
326	Rost	Affirms Rep. Prozanski's comment.
348	Rep. Courtney	Discusses forfeiture language in -4, -5, and -6 amendments.
347	Joan Robinson	Legislative Counsel. Submits and explains -3 amendments (EXHIBIT E) . Discusses and explains -4 and -5 amendments.
410	Rep. Prozanski	Contrasts -3 to -4 and -5 amendments.
450	Rost	Discusses technical aspects of BAC testing.
TAPE 127, A		
008	Chair Minnis	Asks what advantage is of having both breath and blood testing.
019	Rost	Discusses technical aspects of BAC testing, specifically 2100:1 ratio.
024	Rep. Prozanski	Discusses chemical analysis techniques and associated administrative rules.
030	Rost	Discusses technical aspects of BAC testing.
058	Chair Minnis	Discusses conversion of breathalyzer levels to BAC levels. States that law requires readings to reflect BAC levels.
065	Rep. Courtney	Contrasts -3 to -4, -5, -6, and -7 amendments.
070	Robinson	Contrasts amendments.
110	Chair Minnis	States support for -4 and -5 amendments. Explains -6 amendments and contrasts to -4 and -5 amendments.
129	Rep. Bowman	Asks if BAC level determined by breathalyzer test is used in court.
133	Rost	Answers yes to Rep. Bowman's question.
140	Rost	Contrasts amendments.
159	Rep. Courtney	States support for concentrating on -5 amendments.
169	Chair Minnis	Contrasts -4 to -5 amendments.
179	Robinson	Contrasts -4 to -5 amendments. Discusses ORS 813.010.
210	Jim Arneson	Oregon Criminal Defense Lawyers Association. Discusses -4 and -5 amendments and outlines concerns about bill.
265	Chair Minnis	States support for bill.
285	Rost	States support for breathalyzer testing. Explains testing and associated machine.
355	Arneson	States that issue is whether or not machine will be measuring what is unlawful. States concern about BAC levels being measured via breathalyzer machines.

400	Chair Minnis	Disagrees with Arneson.
423	Rep. Sunseri	Affirms Arneson's statements.
TAPE 126, B		
010	Rost	Explains technical aspects of BAC testing.
060	Rep. Sunseri	States that there's not a direct correlation between breathalyzer tests and BAC levels.
069	Rost	States support for current breathalyzer tests.
080	Rep. Prozanski	Discusses perceived bill impact.
105	Rep. Sunseri	States support for allowing defendants access to BAC testing prior to breathalyzer testing.
150	Chair Minnis	States support for bill.
157	Arneson	States opposition to bill.
180	Rep. Courtney	Discusses current BAC testing.
190	Rep. Wells	Asks how many other states are taking similar approaches regarding separation of BAC and breathalyzer testing.
200	Frost	Discusses other states' procedures.
235	Arneson	States concerns about bill.
249	David Fidanque	Public citizen. Discusses implied consent issues.
269	Rep. Courtney	Affirms Fidanque's statements.
275	Rep. Sunseri	Asks if breathalyzer tests are stronger evidence than actual blood tests.
283	Fidanque	Contrasts tests and associated weight of tests in court of law.
290	Chair Minnis	States support for bill. Discusses correlation between breathalyzer test levels and BAC levels.
395	Rost	Discusses accuracy of breathalyzer tests.
402	Rep. Prozanski	Discusses perceived bill impact.
TAPE 127, B		
010	Chair Minnis	States support for making drunk driving convictions easier for law enforcement officials.
025	Rep. Courtney	States support for reducing drinking and driving.
047	Rep. Sunseri	States support for reducing drinking and driving.
059	Rep. Bowman	States concerns about -6 amendments.
100	Rep.	Explains -6 amendments.

	Prozanski	
123	Chair Minnis	Closes work session on HB 2726 and opens work session on HB 3565.
<u>HB 3565 - WORK SESSION</u>		
129	Roberta Lusberance	Legislative Aide to Rep. Jane Lokan. Submits and explains written testimony (EXHIBIT F). States support for bill and -1 amendments.
130	Scott Lumsden	Committee Administrator submits -1 amendments (EXHIBIT G).
170	Scott Lumsden	Committee Administrator submits written testimony (EXHIBIT H) for the record.
170	Rep. Bowman	MOTION: Moves to ADOPT HB 3565-1 amendments dated 04/21/97.
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
172	Rep. Bowman	MOTION: Moves HB 3565 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Courtney, Shetterly
	Chair Minnis	The motion CARRIES. REP. LOKAN will lead discussion on the floor.
195	Chair Minnis	Closes work session on HB 3565 and adjourns meeting at 2:57 PM.

Transcribed and Submitted by, Reviewed by,

Paul Zolezzi, Sarah Watson,

Administrative Support Judiciary

EXHIBIT SUMMARY

A - HB 2726 proposed amendments, Rep. Floyd Prozanski, 13 pp.

B - HB 2726 proposed amendments, staff, 2 pp.

C - HB 2726 written testimony, Jeff Rost, 2 pp.

D - HB 2726 proposed amendments, Rep. Peter Courtney, 41 pp.

E - HB 2726 proposed amendments, staff, 12 pp.

F - HB 3565 written testimony, Roberta Lusberance, 2 pp.

G - HB 3565 proposed amendments, staff, 1 p.

H - HB 3565 written testimony, staff, 1 p.