

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON FAMILY LAW

May 14, 1997 Hearing Room 357

3:15 P.M. Tapes 89 - 90

MEMBERS PRESENT:

Rep. Ron Sunseri, Chair

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Peter Courtney

Rep. Charles Starr

Rep. Judy Uherbelau

STAFF PRESENT:

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

MEASURE/ISSUES HEARD:

HB 3187 - Work Session

HB 2652 - Work Session

HB 3606 - Work Session

HB 2932 - 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 89, A		
003	Chair Sunseri	Calls the meeting to order at 3:19 p.m.
<u>HB 2932 - PUBLIC</u>		

HEARING		
004	Chair Sunseri	Opens a public hearing on HB 2932.
005	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2932.
011	Rep. Patti Milne	District # 28 Testifies as Sponsor of HB 2932. >heavy constituent interest (state and nationwide)
032	Rep. Eighmey	Shares comments regarding society's interest over concealed weapons.
044	Rep. Milne	Responds by stating the public's desire to maintain their freedom to own a weapon.
059	Larry Priano	Pharmacist, Phd. in Physiology, and a Physician licensed in Oregon. Testifies in support of HB 2932 and presents written testimony (EXHIBIT A) .
078	Rep. Eighmey	What do your credentials have to do with this Measure?
083	Priano	My credentials have nothing to do with the Measure. However, in my capacity as a physician, I have treated persons who have been shot. Shares examples. Honest law abiding citizens should be given the opportunity to exercise their constitutional rights of freedom.
094	Paul deParrie	Citizen Testifies in support of HB 2932 and presents written testimony (EXHIBIT B) .
144	deParrie	Continues testimony.
151	Rep. Beyer	Does Vermont have tighter restrictions to buy a handgun than in Oregon?
155	deParrie	Not to my knowledge.
156	Tracy	Citizen Testifies in support of HB 2932. Responds by stating that in Vermont, that the rules for purchasing a weapon are similar to all other states. >more an issue of liberty Vermont has the lowest crime rates.

		If a person doesn't know you are carrying a gun, a crime won't probably be committed. If there is a chance that a person is carrying a gun, a criminal might think twice.
201	Kevin Starrett	Gun Owners of America Testifies in support of HB 2932 and presents written testimony (EXHIBIT C) .
261	Rep. Eighmey	Shares concerns over comments made by previous witness.
272	Starrett	Continues testimony.
285	Chair Sunseri	How many people in Oregon carry permits and have been arrested for a violent crime with a gun?
289	Starrett	The Clackamas County Sheriff's office stated that the statistics are insignificant. I am not aware of any, though I assume there are some, of a licensed person who has been arrested for a crime.
290	Chair Sunseri	Could you elaborate on your statement, "If a person opposes abortion, that person can't obtain a gun permit?"
293	Starrett	Gives example.
325	Cliff Daimler	Oregon State Police Testifies in opposition of HB 2932 and presents written testimony (EXHIBIT D) .
348	Chair Sunseri	How does Vermont's cities and townships restrict the possession of firearms and carrying concealed weapons?
350	Daimler	The method of restriction is left to each city and township.
351	Chair Sunseri	How does Vermont restrict citizens from the right to keep and bear arms?
354	Daimler	Restriction is done by individual statutes and ordinances by city and township. The state of Vermont has no law that regulates carrying concealed weapons.
388	Chair Sunseri	Are there city permits to carry concealed weapons?
390	Daimler	Some cities in Vermont require permits to carry concealed weapons.
391	Chair Sunseri	Any restriction, therefore, is done on a local basis.
392	Daimler	Continues testimony.
402	Chair Sunseri	Do you have any information on the number of licensed persons in Oregon, who have been arrested?
404	Daimler	I do not have that information. I do not know, if the information is available statistically. I know there has been licensed people arrested. From what I have heard through the grapevine, the number is fewer than 20.

407	Chair Sunseri	Of those licensed persons, who have been arrested, have any been troublemakers?
408	Daimler	No. Gives comments about process over loss and reissue of license.
419	Robert Gordon	Citizen Testifies in support of HB 2932 and presents a Guns and Crime article dated April 1994 (EXHIBIT E).
469	Gordon	Continues testimony over the right to bear arms.
Tape 90, A		
035	Gordon	Continues testimony over the right to bear arms. I asked the drafter of article, Michael R. Rand, if he had any data on the number of self-defense uses of a firearm in Oregon. He said, the article was based on the National Criminal Justice Victimization Survey. Explained how the survey was conducted. There is no data within the survey that could be specifically traced Oregon. Within Oregon only 700 homes were surveyed. But in order to be accurate over 2,700 households would need to be surveyed. From this article, a reader can not get accurate data for Oregon. I asked Mr. Rand, why the information wasn't available. Mr. Rand responded by stating the survey is confidential information. Some would say the survey numbers in the article are low. Their reasoning stems from the survey being gathered by the government. A lot of people are not willing to advise the government on their possession of a gun. Shares examples.
085	Gordon	Continues testimony over the right to bear arms. >reads from a Uniform Crime report >reads from a statewide Oregon State Police report of criminal offenses and arrests dated 1995 This measure will not allow juveniles to carry concealed weapons. Reads from a nationwide data that shows: >types of weapons used in robberies, firearms only 41% followed by strong arm methods at 40.7% >types of weapons used in aggravated assault, firearms only 22% followed last by knives or cutting instruments at 18%
		Continues testimony over the right to bear arms.

135	Gordon	Reads from an article from The Oregonian dated Thursday, May 19, 1997 on page D4. Because the police may not even respond, having a weapon may reduce your chance of having a crime committed upon you.
145	Rep. Uherbelau	You stated, if you carry a gun you are less likely to be a victim.
152	Gordon	Yes.
153	Rep. Uherbelau	Refers to Exhibit E footnote #2, would you not agree that police officers are better trained than the normal citizens in the use of firearms and thus are less likely to be injured where a firearm is used?
163	Gordon	Police officers are killed about 26% by their own weapons. There is a possibility, no matter how well trained, the weapon could be removed.
171	Rep. Uherbelau	Is it not more likely that a police officer is better trained on how to defend themselves than where an individual with a gun defends oneself?
189	Gordon	I assume that would be a possible with regards to police officer training.
195	Rep. Uherbelau	Shares her interpretation over Exhibit E's statistical information.
205	Gordon	Shares his interpretation over Exhibit E's statistical information.
217	Chair Sunseri	Closes the public hearing on HB 2932.
<u>HB 3187 - WORK SESSION</u>		
218	Chair Sunseri	Open a work session on HB 3187.
231	Rep. Beyer	MOTION: Moves to ADOPT HB 3187-2 amendments dated 04/25/97.
243	Rep. Courtney	Asks for intent of measure.
260	Chair Sunseri	Closes the work session on HB 3187.
<u>HB 2652 - WORK SESSION</u>		
261	Chair Sunseri	Opens a work session on HB 2652.
288	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2652.

		Refers to the -6 amendments dated 05/07/97 which were presented to the subcommittee on 05/07/97 as exhibit A.
321	Rep. Uherbelau	I have concern about the domestic violence situations and my concerns have not been addressed in the -6 amendments. Gives example. I have a second concern over the language in <u>Section 4</u> subsection (b) of the -6 amendments. Gives example.
359	Taylor	Rep. Uherbelau, as to your first concern earlier this session, the subcommittee addressed the issue of battered spouse syndrome. Per Susan Tripp, a spouse could raise as a defense the battered spouse syndrome. As to the second concern raised by Rep. Uherbelau, should the subcommittee decide to have a condition precedent to bringing a criminal conviction, that would be a policy decision.
389	Susan Tripp	Marion County Deputy District Attorney Provides intent behind the -6 amendments of HB 2652: >an offender under this measure is an adult only >apply actual knowledge standard >report to Services to Children and Families >parity between misdemeanor and felony language >domestic violence is a defense available to the charge of protecting a child from sexual conduct and would be no different than apply any other general defense Gives example.
429	Rep. Uherbelau	Would you be amenable to adding language that specifically states that domestic violence is an available defense?
438	Tripp	As a drafter, carving out individualized defenses in individualized statutes, is always cumbersome. It is better to have a generalized defense that applies to everyone in all cases.
455	Rep. Uherbelau	The legislature does carve out specific defenses. Gives example. I am uncomfortable that this measure doesn't specifically address the use of domestic violence as a specific defense. That is why I asked you to agree to writing this defense into the measure?
Tape 89, B		
035	Tripp	I have not been in support of some of the language that has been suggested to be placed within the measure. I believe, that the general defense that is available would allow a person who is truly a battered

		women to avail themselves of that defense.
039	Rep. Uherbelau	This domestic violence crime, battered women syndrome, is not in the evidence code.
040	Tripp	I see cases where battered women syndrome is involved and that is why I asked for this measure. If the legislature creates a situation where the child must go through a protracted case, it would be hard on the child . Therefore, I don't believe the measure will be used much.
050	Rep. Uherbelau	Why is it any harder on the child, than having their parent charged and convicted?
053	Tripp	Shares comments over the role the child may have to face in domestic violence cases. The faster the resolution the better for the child concerned.
063	Rep. Uherbelau	Gives example of domestic violence cases involving children. I am uncertain why trying cases separately (one case for the person charged to protect and a second case with the abuser) is helping the child?
086	Rep. Beyer	I have concerns about not having a criminal conviction before you charge someone else for failure to protect a child. Gives example.
095	Tripp	Responds to Rep. Beyer's concern by giving an example of action taken under HB 2652.
102	Taylor	Why couldn't we put in a conviction? It's a statutory problem, can't that be changed by the legislature?
105	Tripp	That person would have a right to confront witnesses and to be heard. It wouldn't be an estoppel as to that defendant. It would be an estoppel to the defendant who was convicted. This person hasn't had their day in court as to whether or not it happened. So we're going to have to prove again the issue of abuse.
112	Rep. Beyer	Why do you have to prove abuse again?
114	Taylor	As it relates to the defendant, that your now saying is a condition precedent, the defendant would have a right to re-litigate the other offense all over again?
118	Tripp	I believe so.
119	Taylor	Is that based on constitutional case law?
121	Tripp	It is based on my understanding of estoppel. I don't believe that person has had their day in court on that material element charge.
123	Chair Sunseri	Closes the work session on HB 2652.
<u>HB 3187 - REOPENS WORK SESSION</u>		
	Chair	

126	Sunseri	Reopens a work session on HB 3187.
127	William E. Taylor	Counsel Reads a preliminary staff measure summary HB 3187. Refers to -2 amendments (EXHIBIT F).
140	Sergeant Mike Ramsby	Oregon State Police - Assistant Manager of the Violent Offender Unit which includes the Sex Offender Registration. Testifies in opposition to the -2 amendments of HB 3187. The -2 amendments: >will substantially change procedures in the unit >will release information to the public on every registered sex offender under the unit >will not include release of information on registered offenders who are under supervision of the department of corrections >will have a high financial impact to the unit
166	Rep. Uherbelau	Is there a difference between a registered sex offender and a predatory sex offender?
169	Ramsby	Yes.
170	Rep. Uherbelau	A predatory sex offender is one who has offended more than once?
173	Ramsby	Defines "predatory sex offender." >at most 10% of the registered offenders are considered predatory
180	Chair Sunseri	Shares intent behind HB 3187. Gives example.
188	Rep. Eighmey	If the landlord has access to the information and fails to provide, the landlord is subjecting themselves to liabilities for failure to provide the information about sex offenders. Gives example.
197	Chair Sunseri	Shares reason behind the measure.
202	Rep. Uherbelau	Shares concerns over disclosure of sex offender information about the subsequent duty that arises. Gives example.
212	Rep. Eighmey	If information is available, immunity needs to be within the measure for the landlord. The duty to disclose maybe more onerous than the right to disclose information on sex offenders.
218	Chair Sunseri	Close the work session on HB 3187.

<u>HB 2932 - REOPENS PUBLIC HEARING</u>		
224	Chair Sunseri	Reopens the public hearing on HB 2932.
240	Will Heigston	<p>Captain with Marion County Sheriff Office and represents the Oregon State Sheriffs Association</p> <p>Testifies in opposition of HB 2932.</p> <p>>current law as written is functioning well</p> <p>>current law provides minimal training for people who possess concealed weapons license - not addressed in HB 2932</p> <p>>domestic violence restraining order allows concealed weapons license to be removed temporarily and may later be restored</p>
270	Rep. Eighmey	Are you aware that I have introduced measures involving concealed weapons which will require proof of how to fire in accordance to standards set by the National Rifle Association and to take a written test showing knowledge when to fire a weapon?
282	Heigston	No.
289	Bob Tiernan	<p>Citizen, Gresham</p> <p>Testifies in support of HB 2932 and presents written testimony (EXHIBIT G).</p>
312	Rep. Uherbelau	Concealed weapons laws are unconstitutional, however, the Supreme Court of the United States has found that laws effecting guns and regulations are constitutional, if the laws are reasonable.
320	Tiernan	I don't believe the Supreme Court's opinion. It is a state issue to protect oneself.
326	Rep. Uherbelau	It is a federal issue because you rely on the federal constitution for your rights.
328	Tiernan	There is also the 10th amendment.
331	Tom O'Connor	<p>Citizen from District # 14.</p> <p>Testifies in support of HB 2932.</p> <p>>shares examples</p> <p>>the deterrent effect can't be determined</p>

		>need to base on individual conduct rather than society at large
381	O'Connor	Continues testimony. >how will police monitor concealed weapons >addresses training of police versus public in general
431	O'Connor	Continues testimony. >government can't be everywhere to protect an individual
450	Stephen Dunell	Past Board Member of the National Rifle Association and President of Oregon Program Civil Rights Lobby. Testifies in support of HB 2932.
Tape 90, B		
033	Dunell	Continues testimony. What is the function of the state police? Are the state police to return back a right already possessed under the constitution? The Supreme Court has upheld gun control laws but has also stated that the laws must conform to and come underneath the powers of the constitution of the state? What is the function of the legislature? Does the legislature review this measure as one that will enhance the social order, tranquil society, and be a benefit to the people or is the measure a breach for removing from state empowered law enforcement the ability to reject people to have a right which is stated in the Oregon constitution? The only authority the federal government has to regulate firearms is under the interstate commerce clause of the US constitution. Reads from a letter from the Bureau of Alcohol Tobacco & Firearms.
080	Chair Sunseri	Closes the public hearing on HB 2932. Adjourns the meeting at 4:48 p.m.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2932, written testimony, Larry Priano, 2 pages.

B - HB 2932, written testimony and support article, Paul deParrie, 55 pages.

C - HB 2932, written testimony, Kevin Starrett, 16 pages.

D - HB 2932, written testimony, Clifford Daimler, 2 pages.

E - HB 2932, article "Guns and Crime", Robert Gordon, 2 pages.

F - HB 3187, -2 amendments dated 04/25/97, Staff, 1 page.

G - HB 2932, written testimony, Bob Tiernan, 1 page.