

CONFERENCE COMMITTEE ON HB 2222

**July 3, 1997 Hearing Room
357**

6:00 P.M. Tapes 1 -

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MEMBERS PRESENT: Rep. John Minnis, Chair

Sen. Neil Bryant

Sen. Ginny Burdick

Sen. Gene Derfler

Rep. Ron Sunseri

MEMBER EXCUSED: Rep. George Eighmey

STAFF PRESENT: Scott Lumsden, Counsel

Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD: Conference Committee on HB 2222

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words. For complete contents, please refer to the tapes.

Tape/# Speaker Comments

TAPE 1, A

004 Chair Minnis Calls the meeting to order at 6:11 p.m. and opens a work session on 2222.

HB 2222 WORK SESSION

013 Chair Minnis Speaks of amendments dealing with insurance fraud. Explains that the house has had little discussion about the concept.

022 Jack Munro Representative, American Insurance Association. Indicates that the insurance fraud section of the bill begins at Section 5.

Continues to describe what each section does in relation to insurance fraud.

077 Sen. Derfler Asks if people will be reluctant to file claims for fear of being accused of insurance fraud.

083 Munro Explains that insurance fraud is a specific intent crime. Second, a local district attorney will make the decision whether or not, a person has committed insurance fraud.

095 Sen. Derfler Verifies that the bill will not deter people from filing claims.

096 Munro It shouldn't.

097 Rep. Sunseri Asks about language on page 13, and for clarification on what

"incomplete information" is.

103 Chris Davies Representative, SAIF Corporation.

The language is related to someone omitting information with the intent to defraud.

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112 Mick Alexander Representative, Oregon Trial Lawyers Association.

- States that the bill will affect every person who purchases insurance.

Explains that the bill will place enormous power with insurance

companies. Describes the difference between a mistake and fraud.

Explains that the bill states, that if a material fact is misrepresented,

then that is fraud. (EXHIBIT A)

1 X7 Sen. Bryant Asks what district attorney would want a trial for a minor misrepresentation.

190 Alexander Asks why the bill is needed if a district attorney wouldn't want a trial for

a minor misrepresentation.

200 Sen. Bryant Indicates that the bill is designed to follow precedent in other states.

Indicates that Section 19 of the bill protects against and insurance

adjuster threatening action.

218 Alexander Suggests that the same process can be accomplished with the Unfair

Claims Practices Act.

231 Sen. Bryant A policy is interpreted against the writer. Explains what costs are won

when insurance companies are sued.

235 Alexander Explains how the bill will require suits to be filed.

243 Chair Minnis Suggests that the discussion is mixing civil law and plain language of a

contract.

256 Alexander Suggests that they are the same.

257 Chair Minnis A prosecutor will have different interpretations.

263 Alexander Explains that cases will be civil cases and if that is true why is the bill

needed.

272 Chair Minnis Indicates that there is a provision in the bill that does provide a penalty

for someone who does pressure lawsuits.

276 Alexander States that the Unfair Claims Settlement Practices Act resolves similar situations.

312 Sen. Bryant Indicates that the Deschutes County District Attorney says that two other statutes will allow for prosecution. Explains that testimony in the Senate indicated that there is a need for the statute.

340 Alexander Describes how an insurance company can recover costs if they are convicted.

368 Chair Minnis Asks why a prosecutor would be indicted.

369 Alexander Explains that a prosecutor would be indicted because they would be a participant in the case.

377 Chair Minnis Says that intent is not imputed because an attorney is representing a client.

382 Alexander Asks how someone can prove the intent of an attorney.

383 Chair Minnis Agrees that is a good question.

385 Alexander Proof is the same. There must be circumstantial evidence that proves the intent to defraud.

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397 Joel Arial Consumer Protection Manager, Insurance Division.

Indicates that there are concerns with the intent to defraud.

Explains

that other states have adopted similar legislation.

TAPE 2, A

011 Alexander Doesn't know what other states are doing, but the people of Oregon shouldn't do something because everyone else is.

020 Sen. Derfier Agrees that fraud does go on in the insurance industry, but their main intent is not to defraud.

031 Alexander Explains that there are laws in place that already address the issues in the bill.

038 Chair Minnis Asks if Mr. Alexander defends criminals.

039 Alexander No.

040 Arial Indicates that there are laws that can address the bill, but there are other issues in the bill.

053 Alexander Explains that adjusters and agents aren't dealt with at all.

060 Chair Minnis Asks where the immunity is for adjusters.

062 Alexander Explains that the bill doesn't apply to adjusters, just those making insurance claims.

070 Arial Indicates that the insurance division does have resources to resolve situations on the civil side.

084 Alexander States that the bill is not a minor bill.

093 Arial The bill puts criminals in jail, but does not raise the civil issues proposed.

096 Sen. Burdick Asks if people with HIV, but don't know they have HIV will be brought into the statute.

103 Arial No. There must be a specific intent to defraud.

110 Sen. Burdick Verifies that all legal mechanisms would be used to prove that.

111 Arial Answers affirmatively.

118 Chair Minnis Indicates that the language clearly states that there must be intent to defraud. Suggests that a district attorney would not waste time on a

case that they cannot prove beyond a reasonable doubt.

133 Alexander Asks what the purpose of the bill is if they won't prosecute.

137 Arial Indicates that there has been an upsurge of district attorneys prosecuting

these cases in states where they have similar laws.

139 Chair Minnis Asks if the insurance division tracks complaints of threats and intimidation.

142 Arial Complaints are tracked in broad categories. Indicates that there are few cases of intimidation.

148 Alexander Indicates that there is an amendment to the bill.

153 Chair Minnis Asks which amendment he is discussing.

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154 Alexander Indicates that -B 11 makes criminal sanctions and -B 13 would provide private right of action under the unfair claims settlement practices act.

Explains that the playing field is not level

165 Chair Minnis Asks why the bill was not intended to go both ways

166 Sen. Derfler Indicates that there was ample law to take care of both sides.

171 Ariel Suggests that there is enough code on the civil side to address the unfair

claims practices

175 Chair Minnis Asks why the action shouldn't be criminalized for both sides

179 Ariel Indicates that the playing field will never be level

199 Sen. Bryant MOTION: Moves to ADOPT HB 2222-12 amendments dated 7/2/97. (EXHIBIT B)

201 Chair Minnis Hearing no objections, declares the motion CARRIED.

204 Sen. Bryant MOTION: Moves to ADOPT HB 2222-14 amendments dated 7/3/97. (EXHIBIT C)

205 Chair Minnis Hearing no objections, declares the motion CARRIED.

207 Sen. Bryant MOTION: Moves to ADOPT HB 2222-16 amendments dated 7/3/97. (EXHIBIT D)

208 Chair Minnis Hearing no objections, declares the motion CARRIED.

222 Sen. Burdick MOTION: Moves to ADOPT HB 2222-11 amendments dated 7/2/97. (EXHIBIT E)

227 Sen. Burdick Explains that the amendments create a level playing field

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VOTE: 2-3

AYE: 2 - Sen. Burdick, Rep. Minnis

NAY: 3 - Sen. Bryant, Sen. Derfler, Rep. Sunseri

EXCUSED: 1 - Rep. Eighmey

235 Chair Minnis The motion Fails.

238 Sen. Bryant MOTION: Moves HB 2222 to the floor with the recommendation

that the House and Senate concur in House amendments

dated 7/3/97 and 7/2/97 and repass the Measure.

VOTE: 5-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Rep. Eighmey

245 Chair Minnis The motion CARRIES.

SEN. BRYANT AND REP. MINNIS will lead discussion on the floor.

247 Chair Minnis Adjourns the meeting at 7 04 p m

Submitted By, Reviewed By,

**Marjorie Taylor, Sarah Watson,
Administrative Support Office Manager**

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EXHIBIT SUMMARY

A - HB 2222, Written materials, Mick Alexander, 13 pp. B - HB 2222, -B12 amendments, Legislative Counsel, 2 pp. C - HB 2222, -B14 amendments, Legislative Counsel, 1 p. D - HB 2222, -B16 amendments, Legislative Counsel, 1 p. E - HB 2222, -B11 amendments, Legislative Counsel, 1 p.

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