

PUBLIC HEARING AND

WORK SESSION ON SB 414 TAPES 091 - 092 A/B

SENATE REVENUE COMMITTEE

MARCH 26, 1997 - 9:00 A.M. - HEARING ROOM B - STATE CAPITOL BUILDING

Members Present: Sen. Ken Baker, Chair

Sen. Neil Bryant, Vice Chair

Sen. Joan Dukes

Sen. Verne Duncan

Sen. Tom Hartung

Members Excused: Sen. Randy Leonard

Witnesses: Phil Ward, Assistant Director, Oregon Department of Agriculture

George Shefcheck, Field Operations Manager for Measurement

Standards Division, Oregon Department of Agriculture

Mike Sherlock, Executive Director, Oregon Gasoline Dealers Assn.

Tom Gallagher, ARCO

Craig Campbell, AAA Oregon

Staff: Jim Scherzinger, Legislative Revenue Officer

Carol Phillips, Committee Assistant

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TAPE 091, SIDE A

005 Chair
Baker Opened meeting at 9:13 a.m.

006 Chair
Baker Oregon is one of only five or six states in country which do not test gasoline, even though it is our largest consumer product. When bill died last session the Attorney General took the genesis of the bill to the Department of Agriculture. A testing program has been run successfully for the past one and one-half to two years. This session a new funding mechanism is promoted to be funded by a charge on each metering device.

OPENED PUBLIC HEARING ON SB 414

Exhibit B - Written testimony. The Department of Agriculture has been involved with motor fuel and weights and measure testing since 1930's. Have been inspecting gas stations since that time for accuracy in measurement. All fuel pumps inspected so that if you buy gallon of gas you are assured of receiving a gallon of gas. Until World War II, Oregon had a motor fuel quality law as well as a weights and measures law that applied to motor fuel. Oregon Department of Agriculture tested motor fuels to assure they met quality standards.

024 Phil Ward Currently have been conducting octane screening program which was funded through a grant from the Department of Justice. SB 414 would establish permanent testing program. Key component is it would allow standards to be set for motor fuel quality; currently there are none. Would institute a modest statewide fuel testing program and allow for enforcement action in situations of non-compliance.

If SB 414 were enacted, would operate program in principle same as have been operating octane screening program. Spent time negotiating protocols for program of this nature. On record as planning to continue use of those protocols.

083 George
Shefcheck Since April 1, 1996 have been in process of screening octane while doing performance tests on measuring devices throughout the state. Have screened gasoline at 1,379 locations in Oregon. Tested 3,508 samples of gasoline, of which 202 were sent to an official laboratory for verification. Of those 202, 22 came back below the posted octane. Those 22 were turned over to the Justice Department, Financial Fraud Department for action. Following American Society for Testing and Measurement reproducibility standards for gasoline. Would refer to Justice Department anything below posted standards. Questions and discussion interspersed.

130 Chair
Baker Surprised at results found in testing. Before the Transportation Committee two years ago, a representative of the petroleum industry acknowledged in public testimony that

the industry itself considers 5% of the gasoline delivered to Oregon to be substandard.

- 139 Ward Results obtained with this screening process are similar to other states which have enacted testing programs. Feel general quality of motor fuel in Oregon is good. Questions and discussion.
- 186 Ward Extremely critical how a testing program of this nature is approached. Would have tried to take every precaution to be sure dealers were dealt with fairly. When group finds a sample shown to be beyond tolerance, first they test at station level with handheld device for octane. Gives a screening for an idea of where on scale product lies. If screening shows outside tolerance level, then no action is taken based on the handheld device but draw two litres and notify station doing so. That sample is sent to an official certified lab. Lab provides results. If results are outside tolerance, challenge comes as to ascertaining where the problem arose. Questions and discussion.
- 225 Shefcheck In screening samples below tolerance, those were sent to official lab. Results were analyzed. Official results showed from .6 to 1.5 below posted octane. In some cases it was impossible to determine who was responsible; therefore, action could not be taken.
- 238 Chair Baker Of the 22 cases brought to Department of Justice, how many were not intentionally caused?
- 240 Ward Could not tell if deliberate or a mistake. Not sure if Justice Department could tell either. Department of Justice applies Oregon Financial Fraud Laws to these cases.
- 260 Sen. Duncan Asked if any cases of non-compliance were traceable back to major companies.
- 265 Ward Answered he was not sure. Cases were turned over to Department of Justice, and from then on it is out of their hands.
- 275 Chair Baker Suggested going through proposed metering program.
- 279 Shefcheck At present time they go into all retail stations, all terminals, and all bulk facilities to inspect meters for performance. They use handheld analyzer at this inspection. Takes 1/2 to one hour to perform screening process. If they find a sample that falls below tolerance, it takes a little more time to draw samples, package them, and ship them via UPS. Gets results back for review, then forwards results to Department of Justice.
- 295 Sen. Dukes Numbers referred to Department of Justice seem lower than those reviewed a few years ago. Seemed there were more stations out of compliance in the past.
- 322 Shefcheck Other states do whole spectrum of testing. All Oregon does is octane level.

351 Shefcheck Proposed program is basically the same as is being performed now. While in station, or in bulk facility, or in terminal testing meters for performance, they will also screen samples. Will follow same procedure worked out with the industry and AAA. Program can be operated with one full-time and one part-time clerical position. Proposed funding mechanism is additional fee of \$6.50 on all measure devices. Current fee \$25.00. Total budget \$300,000 per biennium.

389 Ward Don't have to create a new inspection force because there is one already in field (14 inspectors in field). Additional position reflects additional work that would be generated by continuing a program of this nature.

TAPE 092, SIDE A

002 Ward Attachment 2 details kinds of things to do in the octane portion of the program. Attachment 3 relates to civil penalty matrix should civil penalties be adopted. Industry interested in reasonable matrix for civil penalties. Attachment 3 details what they would propose to adopt in rule as a civic penalty guide should they be adopted as a part of this legislation. Attachment 4 shows an inspection report from current program, along with Attachment 5, small and large stations, the kind of scale that would be involved.

021 Shefcheck Attachment 4 is a meter performance report.

032 Ward Attachment 6 indicates 1996 retail gallons of gasoline sold in Oregon totaled 1,489,134,558. Diesel sold was 75,783,637 gallons.

043 Chair Baker Asked if testing diesel at current time. They are not, but will in future if bill permits it. Questions and discussion.

066 Ward Feels they have received good support from the industry to date.

079 Mike Sherlock Exhibit C - Written testimony. Opposes SB 414 as written. (Read written testimony). Feels this program places too large a burden on retail gas dealer.

142 Tom Gallagher Represents ARCO. Have no objections to gasoline fuel testing program which has been in place. Appreciative of Department of Agriculture for working out the testing process. Supported past program, but will be watching Amendments and following this Bill. Questions and discussion interspersed.

196 Craig Campbell Would add only that AAA has been pleased both by cooperation of Department of Agriculture in putting through the test program, and with working with AAA and members of the industry in how willing they have been to work through this process in a cooperative manner. Still reviewing Amendments to Bill, but overall support SB 414.

212 Chair Baker Adjourned meeting at 9:56 a.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

Exhibit Summary:

A. SB 414, Scherzinger, Revenue Impact Statement, 1 page

B. SB414, Ward, Oregon Department of Agriculture, Written testimony, 15 pages

C. SB 414, Sherlock, Written testimony dated 3/26/97, 2 pages