

SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

March 13, 1997 Hearing Room 343

1:00PM Tapes 35 - 36

MEMBERS PRESENT:

Sen. John Lim, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Bill Fisher

Sen. Gary George

Sen. Avel Gordly

MEMBER EXCUSED: Sen. Veral Tarno

STAFF PRESENT:

Jim Stembridge, Administrator

Julie Havel, Administrative Support

MEASURE/ISSUES HEARD:

SB 314 Public Hearing and 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 35, A		
005	Chair Lim	Calls meeting to order at 1:19pm and opens public hearing on SB 314.
<u>SB 314 - PUBLIC HEARING</u>		
043	Chair Lim	Recesses meeting for five minutes to await arrival of other members.
044	Chair Lim	Re-convenes meeting and opens work session on SB 314.
<u>SB 314 - WORK SESSION</u>		

047	Jim Stembridge	Committee Administrator, explains provisions of SB 314 and intent of proposed amendments (EXHIBIT A). Explains the -2 amendments have just been distributed to the members and they seek to replace the yet-to-be determined percentage on the blank line in the original bill with 60% of revenues.
069	Stembridge	Continues explaining amendments.
104	Sen. Fisher	Asks for clarification on language regarding whether or not and at what point they must determine if the existing lottery usage is dominant.
114	Stembridge	Explains he believes the purpose is to have the State Police identify those establishments that are going into business to sell lottery products and not much else.
146	Chris Kuhner	Legislative Assistant to Sen. Jeannette Hamby, clarifies the purpose behind the intention of allowing the State Police to determine whether the lottery was the dominant use.
149	Sen. Dukes	Asks for further clarification on dominant use in relation to existing businesses.
158	Kuhner	Clarifies.
165	Sen. Dukes	States she thinks he needs to use different language in this part of the bill.
173	Stembridge	Continues explaining amendments.
235	Sen. Jeannette Hamby	District 5, SB 314 Sponsor. Asks if everyone is comfortable with the amendments and explains the amendment should read that when an establishment first opens, that it not be allowed to participate in the lottery, so it can show that it makes profits from other products and is not in effect, a "mini-casino."
265	Sen. Dukes	Asks for and receives clarification that the 60 percent figure was suggested by Chair Lim, and the 51 percent was suggested by Sen. Hamby.
285	Sen. Hamby	Explains further her interpretation of the meaning of "dominance," (EXHIBITS B & C), using examples of synonyms. Urges committee to uphold the oath they took to uphold the constitution, and reminds them of Article 15, section 4, sub-section 7, that states "the Legislative Assembly has no power to authorize and shall prohibit casinos from operation in the state of Oregon."
343	Sen. Fisher	Asks for definition of "mini-casino" as opposed to "casino."
345	Sen. Hamby	Suggests that we have smaller establishments that are also casinos, because the dominant purpose of their establishment by revenue is in fact, to enjoy profits from video poker and other gaming machines. States that is her definition and it cannot be found in the constitution.
362	Sen. Fisher	Asks further for definition of "casino."
368	Kuhner	Cites case of Ecumenical Ministries vs. the state of Oregon and states the definition of dominant as defined by the Supreme Court in that case. States that the Supreme Court defined "casino" as "any establishment where the dominant use or dominant purpose, or both, is for gambling."

383	Sen. Fisher	States he wants to define both terms to avoid the possibility of comparing apples and oranges here.
TAPE 36, A		
002		Discussion held on the Supreme Court decision with regard to whether the committee still needs to define casinos first and then define "dominant" in order to determine "dominant use."
019	Chair Lim	Asks what the current lottery rule is pertaining to dominant use.
20	Kuhner	Explains the current rule is 66 and 2/3 %.
026	Sen. Dukes	Uses example of her ten year old being able to tell if she's given him "most" of a pie and states to her this is not a hard call to make.
030	Sen. Fisher	Shares his concerns with the apparent changing of the rules and regulations mid-stream and leaving it up to the Legislature to define.
051	Sen. Hamby	States this bill simply asks us to define a Supreme Court decision to define what is dominant. Explains there are many small bar and restaurant owners in her district who support this bill, because they are not making the bulk of their profits from gambling. But states we now have other small establishments who are "hiding under the guise" of a local business and acting as a casino.
076	Chair Lim	Acknowledges Sen. Fisher's concerns, but states they are trying to make the law better and urges the committee to move on.
084	Chair Lim	Leads committee through the hand-engrossed bill.
097	Sen. Dukes	Asks for clarification regarding the meaning of "tickets" for video lottery games.
100	Kuhner	Explains that amendment was their attempt to include all lottery games except for the lottery ticket games, and is intended to include Keno. States it may be better to adopt the Oregon State Lottery's definitions of "video lottery games "and "on-line games."
134	Sen. Fisher	Shares concerns about the addition of keno into the bill and asks if this bill pertains to video poker or keno.
152	Kuhner	Explains the State Police's intentions regarding this issue.
158	Sen. Fisher	States instead of getting more concise, this bill is getting worse, and much of it doesn't seem to apply. Shares his concerns with this approach.
188	Chair Lim	Asks for Kuhner's opinion on the practice of buying tickets for video poker.
191	Kuhner	Explains he is not familiar with the practice.
195	Sen. Dukes	States she believes it would probably be a lot easier if the committee members ever participated in the lottery so they would understand the various aspects.
206		Discussion held on what objective is trying to be achieved here and how the lottery's recent change of rules is affecting it.
244	Chair Lim	Asks why they have chosen a nine month period.
246	Kuhner	Explains it came from the Lottery Commission's current nine month rule.

272	Chris Lyons	Director, Oregon State Lottery, clarifies that the Lottery Commission currently has a very good working relationship with the State Police, and is working with additional CPA's to determine dominant use. Clarifies further that the commission took the appropriate action regarding the Dotty's Deli situation.
323	Sen. Gordly	Asks for clarification regarding findings of the court case with Ecumenical Ministries.
334	Lyons	Explains the court recommended it apply to all gambling, not just video, and since the last meeting the lottery has changed the rule to also include all lottery games.
372	Chair Lim	States his concerns regarding pressure on the employer to sell more food and non-lottery products.
TAPE 35, B		
007		Discussion continues on issue of businesses being allowed to make solid incomes from video and other lottery games.
017	Lyons	Explains the lottery was reluctant to upset the status quo other than to change it to include all lottery games.
025	Sen. Fisher	States his concerns about the fact that somebody could stand somewhere selling scratch it tickets and somebody could be just as addicted to that.
059	Sen. Fisher	Asks if they have talked to Dotty's and asked them to voluntarily sell more food.
064	Lyons	States they have taken steps to get into compliance, and submitted a plan for compliance, as is another retailer on the list.
093	Sen. Gordly	Asks who brought forth the -1 and -3 amendments.
98	Chair Lim	Explains Sen. Hamby brought those amendments, and he has suggested the -2 amendments.
107	Sen. Gordly	Asks how they arrived at these suggestions.
109	Chair Lim	Explains his figure was an arbitrary one in-between the two, because no one can really define "dominant."
124	Sen. Fisher	Asks if there would be any advantage of putting this issue out before voters.
130		Discussion held on how they should handle issue, which is getting "muddier" all the time.
168	Lyons	Re-caps lottery's plans to streamline their resources regarding the gathering of information regarding compliance.
200	Sen. Gordly	States the issue she is struggling with is what power the Legislative Assembly has in this arena, states she is stuck, and the debate needs to go forth, but she struggles with language that she believes is not precise enough in this bill.
222	Sen. Gordly	Asks for and receives clarification on wording in Section 2, line 8.
232	Sen. Dukes	States she does not think they can move this bill today for that very set of reasons, and states if staff could sit down with Legislative Counsel and

		clarify the language, they could come back with a cleaner bill.
255	Chair Lim	States he does not intend to move this bill, but does want to identify the problem areas.
262	Sen. Fisher	Asks for and receives clarification on updated figures of expenditures on gambling (EXHIBIT D) .
280	Sen. Gordly	States she does not have that material with her and cannot follow along.
286	Stembridge	Clarifies column K in his document vs. column K in Kuhner's document, which is the old percentage under the old formula.
311		Discussion held on various establishments and the dominance of the lottery
343	Chair Lim	States he would like to move on and try to identify any other problems with the amendments that will let them come back with a new and better bill.
359	Stembridge	Asks if there is a consensus on the part of the committee as to whether it likes the State Police being involved in making an initial determination, and gives possible alternatives.
384	Sen. Gordly	States she has a problem trying to understand lines 18, 19, and 20, on page two regarding this issue.
400		Discussion held on whether changing the wording would in fact change the nature of State Police involvement.
TAPE 36, B		
019	Sen. Dukes	Asks if the lottery intends to consider changing its policies in the area of percentages they allow.
022	Lyons	Explains yes, but the lottery commission would like to get results back from their audits before they re-examine the issue.
053	Sen. Dukes	States she looks at this as a policy issue, not a dollars and cents issue, and states she wishes the lottery would pick up the pace a little.
076	Chair Lim	Asks what happens when a facility is not in compliance before the lottery yanks out its machines.
090	Lyons	Explains they have six months to get in compliance, and must remain in compliance for six months. If they don't, the lottery terminates their contract.
112	Chair Lim	Asks about the difference in floor space between 15 and 20 percent.
114	Kuhner	Explains they would be happy to have both figures be 15 percent, but they did not have that figure when crafting the bill.
124	Sen. Fisher	Asks how percentages apply if a person stands at a machine and eats while playing or sitting at a table eating while they play a lottery game.
137	Lyons	Explains there needs to be a minimum of 24 square feet and states they are in the process of determining these issues at the lottery.
172	Sen. Fisher	States the lottery would have a hard time justifying that in court, and shares his concerns about his perceived flaws in that method.
199	Lyons	Explains that is why they've tried to keep this as simple as possible.

207	Chair Lim	Closes work session and adjourns meeting at 3:01pm.

Submitted By, Reviewed By,

Julie Havel, Jim Stembridge,

Administrative Support Administrator

EXHIBIT SUMMARY

A -SB 314, proposed amendments and hand-engrossed bill, staff, 7pp.

B -SB 314, outline of testimony, Sen. Jeanette Hamby, 3pp.

C -SB 314, lottery gross sales statistics, Sen. Jeanette Hamby, 4pp.

D -SB 314, gambling analysis, staff, 4pp.

