

HOUSE COMMITTEE ON  
GENERAL GOVERNMENT AND REGULATORY REFORM

Hearing Room  
Tapes - 62

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair  
Rep. Mike Lehman, Vice Chair  
Rep. Jerry Grisham  
Rep. Bryan Johnston (Arrival: 1:23 pm)  
Rep. Bill Markham  
Re. Lonnie Roberts (Arrival: 1:28 pm)  
Rep. Barbara Ross  
Rep. Charles Starr  
Rep. Ken Strobeck  
Rep. Sharon Wylie

MEMBERS EXCUSED:

Rep. Bev Clarno  
Rep. Cedric Hayden

STAFF PRESENT:

Greg Moore, Committee Counsel  
Kay C. Shaw, Committee Assistant

MEASURES HEARD:

SB 12 Work Session  
SB 316 Work Session  
SB 15 Work Session  
SB 23-A Work Session  
HB 2068 Work Session  
HB 2719 Work Session  
HB 2118 Work Session

These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,  
please refer to the tapes.

TAPE , A

006 CHAIR TIERNAN: Call the meeting to order at 1:09 pm. REPS. CLARNO  
and HAYDEN ARE EXCUSED. REPS. JOHNSTON and ROBERTS ARE ABSENT.  
Introductory comments and announcements.

012 CHAIR TIERNAN: Opens the work session on SB 12.

SB 12 - WORK SESSION

014 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure  
Summary. The Preliminary Staff Measure Summary is hereby made a part of  
these Minutes (EXHIBIT A).

The prepared statement submitted by Bill Cross, Government Affairs  
Representative, representing Willamette Valley Brewing Company, is hereby  
made a part of these Minutes (EXHIBIT B).

MOTION: REP. MARKHAM moves that SB 12 be sent to the Floor with a DO PASS  
recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, LEHMAN, MARKHAM, ROSS, STARR,  
STROBECK, WYLIE and CHAIR TIERNAN vote AYE. REPS. JOHNSTON and ROBERTS ARE

ABSENT. REPS. CLARNO and HAYDEN ARE EXCUSED. REPS. JOHNSTON and ROBERTS  
arrive late and vote AYE (see tape at 299 and 303).

038 CHAIR TIERNAN: Declares the Motion PASSED. REP. ROSS to carry the  
bill.

040 CHAIR TIERNAN: Closes the work session on SB 12 and opens the work  
session on SB 316.

SB 316 - WORK SESSION

042 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT C).

MOTION: REP. MARKHAM moves that SB 316 be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, LEHMAN, MARKHAM, ROSS, STARR, STROBECK, WYLIE and CHAIR TIERNAN vote AYE. REPS. JOHNSTON and ROBERTS ARE

ABSENT. REPS. CLARNO and HAYDEN ARE EXCUSED. REPS. JOHNSTON and ROBERTS arrive late and vote AYE (see tape at 299 and 303).

062 CHAIR TIERNAN: Declares the Motion PASSED. REP. ROSS to carry the bill.

068 CHAIR TIERNAN: Closes the work session on SB 316 and opens the work session on SB 15.

#### SB 15 - WORK SESSION

073 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT D). The SB 15-2 Amendments are hereby made a part of these Minutes (EXHIBIT E). Says the SB 15-2 Amendments allows the package store licensee to have tastings without purchasing an additional license (i.e., removes tasting from a special category that requires a separate license). The SB 15-2 Amendments also allows tastings under Class

A, B and C licenses (i.e., restaurant and private clubs) and retail malt beverage licensees to provide sample tastings on the premises without an additional license. The SB 15-2 Amendments should be thought of as "the abolition of special requirements to have a tasting."

The prepared statement submitted by BILL CROSS, Government Affairs Representative, Willamette Valley Brewing Company, is hereby made a part of these Minutes (EXHIBIT F).

100 CHAIR TIERNAN: Is it correct that the current law doesn't apply to grocery stores?

COUNSEL MOORE: The current law is where a tasting license is needed. E.g., Restaurants and such, prior to this time, have not been able to have tastings and now restaurants will be able to have tastings.

CHAIR TIERNAN: What about a tavern?

COUNSEL MOORE: Believes that a tavern would fit under a "restaurant license"; therefore, now taverns will be able to have tastings where a tavern wasn't able to have tastings prior to this time.

107 BILL CROSS, Government Affairs Representative, Willamette Valley Brewing Company: Taverns would be included in this new language under retail malt beverage.

CHAIR TIERNAN: Is it correct that currently taverns need a license if they are a bar, tavern, or grocery store?

111 MR. CROSS: Currently these types of tastings where the manufacturer provides the product and service staff to help do the limited-sized tastings cannot be done at restaurants, bars or taverns -- tastings can only be done at package or grocery stores and those do require a special additional license.

116 CHAIR TIERNAN: Does a grocery store owner need a license if the owner decides to have a tasting?

MR. CROSS: That's correct.

121 MOTION: REP. MARKHAM moves that SB 15 as amended be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, LEHMAN, MARKHAM, ROSS, STARR, STROBECK, WYLIE and CHAIR TIERNAN vote AYE. REPS. JOHNSTON and ROBERTS ARE

ABSENT. REPS. CLARNO and HAYDEN ARE EXCUSED. REPS. JOHNSTON and ROBERTS arrive late and vote AYE (see tape at 299 and 303).

131 CHAIR TIERNAN: Declares the Motion PASSED. REP. ROSS to carry the bill.

CHAIR TIERNAN: Closes the work session on SB 15 and opens the work session on SB 23-A.

SB 23-A - WORK SESSION

139 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT G). Explains that SB 23-A makes substantive changes in OLCC's license statutes.

The prepared statement submitted by BILL CROSS, Government Affairs Representative, Willamette Valley Brewing Company, is hereby made a part of these Minutes (EXHIBIT H).

161 MOTION: REP. MARKHAM moves that SB 23-A be sent to the Floor with PASS recommendation.

a DO

VOTE: In a roll call vote, REPS. GRISHAM, LEHMAN, MARKHAM, ROSS, STARR, STROBECK, WYLIE and CHAIR TIERNAN vote AYE. REPS. JOHNSTON and ROBERTS ARE ABSENT. REPS. CLARNO and HAYDEN ARE EXCUSED. REPS. JOHNSTON and ROBERTS arrive late and vote AYE (see tape at 299 and 303).

171 CHAIR TIERNAN: Declares the motion PASSED. REP. LEHMAN to carry the bill.

174 CHAIR TIERNAN: Closes the work session on SB 23-A and opens the work session on HB 2068.

HB 2068 - WORK SESSION

176 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT I). Explains that HB 2068 creates a single class certificate instead of a Class A and Class B certificate, extends the time period for that certificate, and creates a special certificate that allows importing for 30 days.

200 CHAIR TIERNAN: Requests a review of the fees. Is there an increase in fees?

COUNSEL MOORE: Explains the fees.

211 REP. MARKHAM: Comments that from the OLCC's viewpoint an expenditure reduction represents an estimated 85% savings in the annual OLCC processing costs.

217 REP. STARR: Summarizes that HB 2068 appears to eliminate two existing fees (i.e., a Class A license for \$15 and a Class B for \$50) and combining those fees into a single license for five years at \$175.

COUNSEL MOORE: That's correct. Explains that the current fee for a foreigner bringing beer or wine into the State would be only \$15 a year; therefore, it is an increase in fee for foreigners.

230 CHAIR TIERNAN: How much is that increase?

COUNSEL MOORE: \$100 -- more over five years. For the "sister states" it is a decrease.

233 CHAIR TIERNAN: What is the justification for raising it for foreigners?

COUNSEL MOORE: There is no longer justification for having a disparity between someone importing from outside the United States and from one of the other 49 states.

243 MOTION: REP. MARKHAM moves that HB 2068 be sent to the Floor with PASS recommendation.

a DO

REP STROBECK: Was the one-year time period established because of the turn over in businesses?

REP. MARKHAM: Refers question to Mr. Reed of OLCC.

255 CHAIR TIERNAN: Comments that he believes the license runs with the business.

258 MIKE REED, Assistant Administrator, Oregon Liquor Control Commission:

Explains the unusual nature of the license. This license doesn't permit any retail business (or wholesale business or manufacturer) to do anything.

It simply is a license that a manufacturer must have in order for the product to be brought in; therefore, if a retail business or a wholesaler goes out of business, presumably somebody else would pick up that business.

The certificate is there so the product can be brought in and sold.

REP STROBECK: This is paid by the manufacturer?

MR. REED: Or importer.

REP. JOHNSTON: Arrives at 1:23 pm.

REP. ROBERTS: Arrives at 1:28 pm.

VOTE: In a roll call vote, REPS. GRISHAM, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STARR, STROBECK, WYLIE and CHAIR TIERNAN vote AYE. REPS. CLARNO and HAYDEN ARE EXCUSED.

CHAIR TIERNAN: Declares the motion PASSED. REP. LEHMAN to carry the bill.

(See tape at 313). Announces that Reps. Clarno and Hayden are excused.

292 MOTION: REP. MARKHAM moves to suspend the rules to allow REPS. JOHNSTON AND ROBERTS to vote on SB 12, SB 316, SB 15 and SB 23-A.

298 CHAIR TIERNAN: No objections. Rules are suspended. Calls for REP. JOHNSTON's vote.

299 REP JOHNSTON votes AYE on SB 23-A, SB 15, SB 316 and SB 12.

302 CHAIR TIERNAN: Calls for REP. ROBERTS' vote.

303 REP. ROBERTS votes AYE on SB 23-A, SB 15, SB 316 and SB 12.

CHAIR TIERNAN: Closes the work session on HB 2068 and opens the work session on HB 2719.

HB 2719 - WORK SESSION

316 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT J).

336 CHAIR TIERNAN: Illustrates a situation involving a wedding and requests more explanation of the effect in such a situation.

COUNSEL MOORE: Provides an example. Explains the current law and that HB 2719 would allow the selling of excess beverage under specific circumstances.

363 REP. LEHMAN: Expresses concern with abuse in some situations? Will OLCC adopt regulations to ensure that the purchase of large quantities of wine through certain organizations are not then distributed through them through some method?

CHAIR TIERNAN: Is it correct this only applies to unopened wine?

374 COUNSEL MOORE: That is correct, sealed containers of wine.

REP. MARKHAM: Requests that Rep. Lehman restate the question.

378 REP. LEHMAN: Points out a concern of this being another form of distribution of wine through some organization that "means to get around the rules of how you purchase in quantity and distribute it out . . . no problem with the concept of gatherings . . . would not want to see cases of

wine being distributed through the Elks Club, for example, through large quantity purchase and distributed through them outside the normal course of

conduct . . . assume there have got to be rules drafted about how all of this is going to be done."

REP MARKHAM: Understands it is a way to get rid of the "surplus" by the club if there is over ordering for special events.

399 MOTION: REP. ROBERTS moves that HB 2719 be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, all members presents vote AYE. REPS. CLARNO

AND HAYDEN are EXCUSED.

418 CHAIR TIERNAN: Declares the motion PASSED. REP. JOHNSTON to carry the bill.

428 CHAIR TIERNAN: Closes the work session on HB 2719 and opens the work session on HB 2118. Announces the bill will not "move out" today.

TAPE 62, A

HB 2118 - WORK SESSION

004 CHAIR TIERNAN: Continues comments. Notes that a delegation worked on reaching a resolution regarding the stringencies and Federal requirement that the State not adopt rules that are more stringent than the Federal requirement. Reps. Lehman and Strobeck met to reach a "best guess" about what is the best thing to do.

The proposed HB 2118-6 Amendments are hereby made a part of these Minutes (EXHIBIT L).

010 REP STROBECK: Refers to the February 15th discussion of the bill regarding the retroactivity of the bill, as originally proposed, and that it could result in changing a lot of existing rules, regulations, corporations, etc. Also, refers to some technical problems (i.e., language

in the bill) in the actual implementation of such a law. Refers to contacts with AOI and the checklist they worked out with DEQ regarding the proliferation of new DEQ rules. Gives detail about the new proposed HB 2118-6 Amendments and the overall intent "to make agencies think two or three times, answer some questions before they came up with a rule that was

different from a Federal standard and in the cases where they felt like they had to, that it really needed to be a situation that was 'special' in Oregon or that the people or the legislature of Oregon had specifically wanted that rule to be different."

045 REP. LEHMAN: Suggests changing Page 1, Line 13, at Section 3, to read "Before adopting any rule that differs from the rules, standards, procedures or requirements of corresponding federal laws, an agency shall prepare written findings that respond to the following questions:". Questions whether this requirement should be placed on every agency for every rule adopted when many of the agencies don't have applicable federal law in the area. Suggests eliminating from Section 4 on Page 2, Lines 16 through 21: "(d) The State Department of Fish and Wildlife.", "(e) The Land Conservation and Development Commission.", "(f) The Department of Education.", "(g) The State Fire Marshal.", and "(h) The State Marine Board

Section." Recommends leaving in the Oregon Occupational Safety and Health Division of the Department of Consumer and Business Services, the Division of State Lands, and the Department of Transportation. Explains the intent of a "test" case to determine how many rules there are which differ; however, it involved some effort/expense for these agencies to go through and analyze/compare all the rules. Secondly, a desire to look at agencies that deal with businesses and that are the major source of complaints.

073 REP. MARKHAM: Was any consideration given to the building codes of the State when analyzing the list?

074 REP STROBECK: Believes the answer is there isn't any federal building code statute as building codes are applied on a local basis.

082 CHAIR TIERNAN: Announces the intention of moving the bill on Friday as the fiscal will be available then. Requests a look into the elevator code due to complaints received about differing interpretations the State has about elevator rules/regulations. Requests a restatement of the wording of

Page 1, Line 13.

REP. LEHMAN: After "Before adopting any rule" insert "that differs from the rules, standards, procedures or requirements of corresponding federal laws". In other words, eliminating that written findings are limited only to those rules that differ from Federal rules on point.

097 CHAIR TIERNAN: Suggests attention to keeping the language broad thereby avoiding conflicts with interpretation.

098 REP. LEHMAN: Says the issue of "when is it different and when is it more stringent" was dealt with extensively.

CHAIR TIERNAN: Refers to language on Page 2, Line 7, Section 4: "the following agencies shall identify and document". What do you mean by "document"? What do you want them to do?

111 REP. LEHMAN: It is critical to determine how does a rule differ" (i.e.,  
in what form or substance is it different) and then an effort to offer some  
explanation about why it differs.

REP STROBECK: Comments that the "key" is to say "where it is different and  
secondly, why is it different."

REP. ROBERTS: Not sure that is necessary.

119 CHAIR TIERNAN: Suggests clarifying in Section 4 what is meant by  
"document all rules" (i.e., an explanation of how the rule is different  
and why it is necessary). Isn't that the intent?

REP STROBECK: In Section 4 the intent was to list the rules; however,  
since the rules weren't necessarily rules that would be adopted, hereafter  
the rules were to just be identified so the legislature could look at them  
for possible changes. Section 3 provides for future rules. Section 4 says  
to go back and have the agencies look at existing rules, identify them and  
then provide an explanation for possible future revision if deemed  
appropriate by the legislature.

125 CHAIR TIERNAN: Suggests a short explanation, "maybe 'necessity' is too  
much", but how they are different, and explain the difference to help  
document the difference.

CHAIR TIERNAN: Does that give anyone a problem?

134 REP. LEHMAN: No problem if there is language on it.

CHAIR TIERNAN: Requests the Committee Counsel to work on that language as  
well as Rep. Lehman's proposed change.

REP. MARKHAM: Did the Subcommittee look at the riparian areas of the  
Department of Forestry? Does that pose a problem?

REP STROBECK: No problem.

REP. LEHMAN: No Problem. Notes the primary problem of identifying  
agencies that had more stringent rules. The Department of Environmental  
Quality is the agency that had many rules and regulations exceeding Federal  
standards.

146 CHAIR TIERNAN: Comments that Section 4 will help to determine the  
agencies exceeding Federal standards. Rep. Markham is suggesting adding  
forestry.

REP. STROBECK: Noted. Adds that originally the thrust of the bill was  
directed toward governmental agencies dealing with business; however, the  
bill is changed to say "any rule". Refers to earlier testimony on February

15 about the difficulty "nailing down" specifics.

175 REP. ROBERTS: Points out that agencies refer to State statutes as the  
reason "why". Are agencies interpreting statutes incorrectly? Suggests  
agencies should provide the source for the determination.

COUNSEL MOORE: Refers to earlier concern regarding elevators. Cites  
Section 4(1)(b).

REP. MARKHAM: Refers to an issue involving the Water Resources Board.

CHAIR TIERNAN: Closes work session on HB 2118. Provides closing comments.

218 CHAIR TIERNAN: Adjourns the meeting at 1:54 pm.

Submitted by, Reviewed by,

Kay C. Shaw Gregory G. Moore  
Committee Assistant Committee Counsel

#### EXHIBIT SUMMARY:

A - Preliminary Staff Measure Summary on SB 12 -- staff -- 2 pages

B - Prepared Testimony on SB 12 - Bill Cross -- 1 page

C - Preliminary Staff Measure Summary on SB 316 -- staff -- 2 pages

D - Preliminary Staff Measure Summary on SB 15 -- staff --2 pages  
E - Proposed Amendments to SB 15 -- staff - 1 page  
F - Prepared Testimony on SB 15 -- Bill Cross -- 1 page  
G - Preliminary Staff Measure Summary on SB 23-A -- staff -- 2 pages  
H - Prepared Testimony on SB 23-A -- Bill Cross -- 1 page  
I - Preliminary Staff Measure Summary on HB 2068 -- staff -- 4 pages  
J - Preliminary Staff Measure Summary on HB 2719 -- staff -- 2 pages  
K - Preliminary Staff Measure Summary on HB 2118 -- staff -- 1 page  
L - Proposed Amendments to HB 2118 -- staff -- 2 pages