

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

May 9, 1995 Hearing Room 357
1:30 pm Tapes 136 - 138

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice Chair (Arrival: 2:25 pm)
Rep. Bev Clarno (Arrival: 2:41 pm)
Rep. Jerry Grisham
Rep. Cedric Hayden
Rep. Bryan Johnston (Arrival: 2:25 pm)
Rep. Bill Markham
Rep. Lonnie Roberts
Rep. Barbara Ross (Arrival: 2:25 pm)
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

STAFF PRESENT:

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

MEASURES HEARD:

HB 2125 - Work Session
HB 2761 - Work Session
HB 3419 - Work Session
SB 13 A - Work Session
SB 332 - Work Session
SB 550 A - Work Session
SB 676 A - Work Session
SCR 9 - 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 136, A

009 CHAIR TIERNAN: Calls meeting to order at 2:07 p.m. REPS. CLARNO,
JOHNSTON, LEHMAN and ROSS are EXCUSED.
> Announcements.

CHAIR TIERNAN: Opens work session on SB 332.
SB 332 - WORK SESSION

Witnesses: Capt. Jim Stephenson, Oregon State Police
John Hunsaker

043 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure
Summary. The Preliminary Staff Measure Summary is hereby made a part of
these Minutes (EXHIBIT_A).

062 CAPT. JIM STEPHENSON, Director, Patrol Services Division, Oregon State
Police: Testifies in support of SB 332. Submits prepared testimony
(EXHIBIT B).
> Introductory comments about the 1993 Legislative session.
> Intent of the bill is to maximize the use of aircraft for traffic safety
purposes.

CHAIR TIERNAN: If a driver was driving 100 mph, could they be cited for
reckless driving or would that only be a speeding violation?

CAPT. STEPHENSON: Yes, they could be cited for reckless driving.
> Introduces John Hunsaker, Chief Pilot of the program.
> Gives video presentation as observed from a patrol aircraft.

112 REP. MARKHAM: What does the aircraft unit cost the State Police? What

is the approximate budget?

JOHN HUNSAKER, Chief Pilot, Oregon State Police: The initial cost for the aircraft used to produce the video was \$84,500. It costs \$44 an hour to operate. Flight hours are about 11-90 hours a month.

REP. MARKHAM: What is the annual cost?

CAPT. STEPHENSON: It's about \$200,000 plus a biennium.

123 CHAIR TIERNAN: What is the normal flight and how many people would be cited?

MR. HUNSAKER: It varies depending upon location. For example, when the aircraft is used for the I-5 corridor, it keeps about five troopers busy.

About 30-40 violations are cited in an hour.

129 CAPT. STEPHENSON: Continues video presentation by pointing out examples of following too close. Those violations, however, cannot now be enforced, but with the proposed new law they could be enforced.

REP. HAYDEN: How is the camera mounted, focused to track the traffic flow?

133 CAPT. STEPHENSON: It's a hand-held video camera.

REP. HAYDEN: There are two people in the aircraft?

CAPT. STEPHENSON: Generally, there's an observer in the aircraft during a flight while the pilot concentrates on piloting the aircraft.

141 CHAIR TIERNAN: Will signs be posted on the freeway regarding aircraft surveillance, etc.?

CAPT. STEPHENSON: Yes. When the program was initiated in July, 1993, through cooperation with the Department of Transportation, signs were positioned at all the major route entries into the state at the borders. There are still some signs from the original 1979 program.

150 REP. ROBERTS: Refers to testimony about using the aircraft for traffic violations. Has any consideration been given to expanding that for flights over State parks to check out drug operations?

CAPT. STEPHENSON: Yes. Discusses the pilot program conducted in southeastern Oregon for 10 days to deter and detect offenders.

170 MOTION: REP. GRISHAM moves that SB 332 to the Floor with a DO PASS recommendation.

173 VOTE: 8-0
AYE: 8 - Grisham, Hayden, Markham, Roberts, Starr, Strobeck, Wylie and Tiernan
EXCUSED: 4 - Clarno, Johnston, Lehman and Ross

CHAIR TIERNAN: Declares the motion CARRIES. REP. Jerry Grisham will lead discussion on the floor.

CHAIR TIERNAN: Closes work session on SB 332 and opens work session on SCR

9.

SCR 9 - WORK SESSION

189 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).

200 MOTION: REP. ROBERTS moves SCR 9 to the Floor with a DO PASS recommendation.

201 VOTE: 8-0
AYE: 8 - Grisham, Hayden, Markham, Roberts, Starr, Strobeck, Wylie, and Tiernan
EXCUSED: 4 - Clarno, Johnston, Lehman and Ross

CHAIR TIERNAN: Declares the motion CARRIES. REP. Bill Markham will lead discussion on the floor.

CHAIR TIERNAN: Closes work session on SCR 9 and opens work session on HB 2125.

HB 2125 - WORK SESSION

Witnesses: Sue Hanna, Legislative Counsel
Ragna TenEyck, Staff Attorney for Rules, Legislative Counsel
Susan Johnson, Board of Maritime Pilots

212 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary and the proposed HB 2125-1 amendments. The Preliminary Staff Measure Summary, including proposed HB 2125-1 amendments, is hereby made a part of these Minutes (EXHIBIT D).

REPS. JOHNSTON, LEHMAN and ROSS arrive at 2:25 pm.

248 MOTION: REP. MARKHAM moves ADOPTION of HB 3125-1 amendments.

REP. HAYDEN: Who asked for the "gut and stuff"?

254 COUNSEL TWEEDT: Understands that the amendments are a result of Legislative Counsel's review of the rules and attempt to statutorily allow the waiving of the fee thereby avoiding the need to bring the rule to the oversight Committee on Rules.

REP. HAYDEN: Does not object to this as an original bill. Why is HB 3125 being "thrown away?"

COUNSEL TWEEDT: The authority from the Office of the Speaker of the House was to use this bill as a vehicle. Susan Johnson from the Board of Maritime Pilots was not interested in "pushing the original bill."

271 REP. HAYDEN: Wouldn't think so. The original bill in Section 10 calls for affirmative action. It says that women and minorities have not been represented in the piloting profession in numbers representing their presence in society. Also, "affirmative action by gutting and stuffing, by

throwing this bill away, we eliminate that." What is the reason for eliminating that as socially worthwhile?

COUNSEL TWEEDT: It doesn't eliminate that.

279 REP. ROBERTS: Joins Rep. Hayden. Recounts a river pilot bill from a past session where the same language was stated and it was proven there isn't any discrimination.

REP. GRISHAM: Discusses concern about the current status of the bill where the Board determines the waivers in the interest of the public. Unsure that arbitrarily waiving is a good idea as a start.

295 SUE HANNA, Legislative Counsel. Testifies as follows:
> Introduces Ragna TenEyck, Staff Attorney for Rules.
> During the session, when deputies don't have an opportunity to review every rule that's adopted by the agencies, someone else does the reviews and when they find a problem they bring it to the deputy in charge.
> Explains that Ms. TenEyck found a problem with the Board of Maritime Pilots rules (i.e., adoption of a rule outside the scope of the statute). There is general authority for the Board to adopt rules that say "go forth and do good." There is also specific authority that says "you shall set rates under these conditions." Opines the specific authority overruled the general authority.

> Conferred with the Board of Maritime Pilots' staff. The Board merely wanted to guide ships down the river after they were invited to the State instead of "putting their hands out and asking to collect a fee the minute they got here."

> Conferred with Committee Counsel about corrective language adopted so the rule would then "fall into line with the statute and we wouldn't have to bring this to Legislative Counsel Committee."

328 CHAIR TIERNAN: Requests discussion of the original bill.

MS. HANNA: When the original bill was written, all state agencies must have their concepts into Legislative Counsel by June 1st of the year preceding the session. Department of Administrative Services must have their concepts several months before that time. The Board didn't know what

kind of an affirmative action plan they would be adopting. The bill was

written as a "place holder", because Legislative Counsel did not know if, in implementing their new rules, they would need legislation. The notion was that it could be amended during session if necessary. The Board of Maritime Pilots has reviewed the proposed rules and they are of the opinion that no further legislation is needed.

349 REP. HAYDEN: Why didn't they know in four years what affirmative action they needed? Why is it "at that last minute now" we don't really know? States readiness to move the original bill.

362 REP. MARKHAM: We have affirmative action and a woman is already admitted.

REP. HAYDEN: Requests testimony about HB 2125 which mandates certain fees, training requirements and affirmative action requirements for the Board of Maritime Pilots, particularly the Columbia River pilots.

368 SUSAN JOHNSON, Administrator, Board of Maritime Pilots: Understands that the original bill was directing the Board to implement a training program that the Board had already developed and are in the process of implementing now; therefore, the bill was no longer necessary to direct the Board to do so (i.e., the Board is doing so on its initiative).

REP. HAYDEN: The Board is not doing it on its own initiative, the Board is doing it under legislative mandate from the 1991 Session.

MS. JOHNSON: That's true.

388 REP. HAYDEN: Why hasn't the Board accomplished that in four years?

MS. JOHNSON: Unable to speak to 1991 -- has only been with the Board 1.5 years. Recounts the last legislative session and that SB 259 directed the Board to develop a program of affirmative action with a subsequent training program to open up the pilots to more women and minorities. Much research was involved and the Board has developed a model for the entire country. Oregon is at the forefront in doing this in this occupation. Elaborates on the program.

CHAIR TIERNAN: Restates that Rep. Markham has moved the proposed HB 2125-1 amendments with objections from several members.

427 REP. WYLIE: Wants a better understanding of the purpose of the amendments (i.e., who they affect, who wants them, etc.).

TAPE 137, A

003 CHAIR TIERNAN: Comments about the amendments.

MOTION: REP. LEHMAN moves to table the bill.

007 CHAIR TIERNAN: Closes work session on HB 2125. Announcement about future consideration of the bill.

CHAIR TIERNAN: Opens work session on HB 2761.

HB 2761 - WORK SESSION

Witness: Richard P. Lucht (McMinnville)
Ed Hughes, Coalition for Veterans Issues

025 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary and proposed HB 2761-1 and HB 2761-2 amendments. The Preliminary Staff Measure Summary, including the proposed HB 2761-1 and HB 2761-2 amendments, is hereby made a part of these Minutes (EXHIBIT E).

RICHARD P. LUCHT, Legislative Director for the Department of Oregon, Disabled American Veterans and First Vice Chairman and Legislative Spokesperson for the United Veterans' Groups of Oregon (UVGO) (McMinnville): Submits prepared testimony on HB 2761 (EXHIBIT F).

067 CHAIR TIERNAN: Explains process regarding the bill.

075 MOTION: REP. MARKHAM moves ADOPTION of the proposed amendments to HB

2761-1 amendments to add the sentence "it is not the intent of the State of

Oregon to build a third veterans' home and none such shall be considered until after such time". [See tape at 190].

REP. BEV CLARNO: Arrives at 2:41 pm.

076 REP. JOHNSTON: Explains why Section 5 of HB 2761-1 is problematic.

CHAIR TIERNAN: Disagrees with Rep. Johnston's impression of Section 5.

REP. JOHNSTON: Section 5 seems to say that you can't have more until you have these two operational.

CHAIR TIERNAN: Correct.

REP. JOHNSTON: Judging from the lobbying efforts regarding HB 2761, opines it will be read as "You promised us more." In other words, these two veterans' nursing homes are operational, where's our third?

094 REP. MARKHAM: Opines that would be controlled by what the Federal Government does and where the state would be on their list. The state has been at the top of the list for the past three years, but once the veterans'

nursing homes are operational, the state would be there.

098 REP. JOHNSTON: Would be more comfortable if Section 5 were deleted.

REP. STROBECK: Seems the language is ambiguous. Reads the language to mean that additional homes won't be established; however, it could be read as permission given to have more homes once these two are operational. Suggests there could be better language.

CHAIR TIERNAN: What is the suggestion for better language? Agrees with Rep. Strobeck that part of the agreement of this bill was "we've got one. We've already authorized one. It's not even built or operational yet. We're going ahead with two. So, before we go ahead with anything else anymore, that we're going to have these homes operational so we can see what the actual effects going to be." Opines that is the intent.

116 COUNSEL MOORE: Suggests possibly changing Section 5 to read "the State of Oregon and the Director of Veterans' Affairs shall not consider establishing more than two Oregon Veterans' Homes".

REP. STROBECK: Means the same thing.

REP. ROBERTS: The reason for the effort on the second veterans' nursing home so quickly is because the ground hasn't been broken for the first one.

If that had been completed, the state would be at the bottom of the federal list. If the state is successful in having two veterans' nursing home, it is doubtful there will be others. Opines the federal money will unlikely be available once the state has two veterans' nursing home -- at least for several years.

128 REP. JOHNSTON: Would prefer language that reads something like "it is not the intent of the State of Oregon to build a third veterans' home and none such shall be considered until after such time".

REP. ROBERTS: All that needs to be said is "if there is no promise to go beyond this without legislative action".

CHAIR TIERNAN: Suggests the addition of a sentence that says "Nothing above shall be construed that we are going to be in anyway encouraging, authorizing or whatever anymore veterans' homes".

135 REP. ROBERTS: In other words, that decision will be taken up by a subsequent legislature.

CHAIR TIERNAN: Opines that is clarifying the language. States the language to be added to Section 5 as hand-engrossed amendments to HB 2761-1

amendments to read "that nothing herein shall be construed to support any further consideration for additional veterans' homes."

146 REP. ROSS: Reads language on Lines 16-17. What is a "war veteran" as opposed to a "non-war veteran"? What is that statutory definition?

CHAIR TIERNAN: Mr. Hughes, do you know what is the difference?

153 ED HUGHES, Coalition for Veterans Issues: It is defined in the statutes.

REP. ROSS: What is it?

MR. HUGHES: If the word "war" is taken out, it opens it up to all veterans and "that is what we would like".

REP. ROBERTS: Let's do it.

159 COUNSEL MOORE: ORS 174.105 defines "war veteran". It requires service of not less than 90 consecutive days during one of the following periods: W.W.I and II, etc. It requires an honorable discharge.

CHAIR TIERNAN: Was the definition part of any previous discussions?

MR. HUGHES: No.

174 REP. ROSS: Are people who sign up to be part of the military during peace time, but who are ready and prepared/contribute to the success of our armed forces, any less patriotic than someone who happens to have served during a time of conflict even though they don't go and serve?

179 MR. HUGHES: The Korean conflict was police action. It was not a war.

CHAIR TIERNAN: The definition in the statute includes the Korean conflict.

REP. JOHNSTON: Likes the current definition of "war veteran".

REP. ROBERTS: Disagrees with Rep. Johnston.

190 CHAIR TIERNAN: Restates the motion.

191 VOTE: 11-1
AYE: 11 - Clarno, Grisham, Hayden, Johnston, Lehman, Markham, Roberts, Starr, Strobeck, Wylie and Tiernan
NAY: 1 - Ross

CHAIR TIERNAN: Declares the motion CARRIES.

212 COUNSEL MOORE: The proposed HB 2761-2 amendments require that the Oregon Veterans' nursing home, authorized earlier in the Act, be subject to all state laws and administrative procedures, specifically the Certificate of Need process and all other regulations that apply to a long-term care facility in the State of Oregon.

218 REP. JOHNSTON: Mentions the Certificate of Need process is in place in the Department of Veterans' Affairs and is designed to be the decision making process discussed. Intends to support the bill, because that process is in existence. How does one ensure that the action on the House side is not then undone on Senate side? Rephrases question as "Is it appropriate to ask those people who are sponsors of the bill if it is their intent to see this through on the Senate side or to see it removed on the Senate side?"

236 REP. ROBERTS: As one of the sponsors of the bill, agrees to support it on the Senate side.

239 REP. JOHNSTON: Attempting to do what?

REP. ROBERTS: Intends to preserve the bill as passed out of this Committee. Doesn't want the proposed HB 2761-2 amendments to hold up this project too long as there is federal moneys at risk. Uncertain whether or not the Certificate of Need will have any negative affect on ensuring there are federal funds. If this is satisfactory enough to prompt a positive vote, agrees to support the HB 2761-2 amendments although reluctantly.

249 REP. JOHNSTON: Is it your representation that if the bill passes out of Committee with the proposed HB 2761-2 amendments that you will try to see that the HB 2761-2 amendments are maintained?

REP. ROBERTS: Yes.

253 REP. HAYDEN: Doesn't object to the proposed HB 2761-2 amendments, but

does object to the Certificate of Need. Explains why.

276 MOTION: REP. HAYDEN moves, in proposed HB 2761-2 amendments, on Line 5 after "subject" to delete ", including", delete all of Line 6, and on Line 7 delete "the office of the Director of the Department of Human Resources."

Note: This would effectively remove the Certificate of Need and leave in everything else.

281 REP. STROBECK: Refers to previous, initial testimony about whether adequate capacity in the State of Oregon is that the essential item about operating a care facility in the private sector is to have a full capacity.

There is much discussion and question about whether or not this is actually needed, particularly since the first veterans' home is not constructed and operational. Urges adoption of the proposed HB 2761-2 amendments in order to protect private business and to ensure a "level playing field".

302 CHAIR TIERNAN: Presents Committee process regarding HB 2761-2 amendments with a subsequent opportunity to propose further amendments.

REP. HAYDEN: Supports HB 2761-2 amendments, based on Chair Tiernan's presentation. Withdraws motion.

MOTION: CHAIR TIERNAN moves that the proposed HB 2761-2 amendments be amended into HB 2761-1 amendments (replaces Section 4 of the HB 2761-1 amendments).

CHAIR TIERNAN: Hearing no objection, declares MOTION ADOPTED.

318 MOTION: REP. HAYDEN moves to conceptually amend HB 2761-2 amendments, on Line 5 after "subject" to delete ", including", delete all of Line 6, and on Line 7 delete "the office of the Director of the Department of Human Resources."

327 REP. ROSS: Objects to the change, because of concern since the beginning there are plenty of nursing home beds in the state. Provides explanation. Intends to vote against the amendment.

350 CHAIR TIERNAN: Understands that both parties agreed to the insertion of the Certificate of Need and that the proposed HB 2761-1 and HB 2761-2 amendments were "okay to let the bill go."

366 REP. HAYDEN: Deleting the words would make it easier to have a war veterans' home (i.e., deleting the Certificate of Need).

373 REP. JOHNSTON: Agrees with Rep. Hayden. It is entirely accurate. It makes it much easier.

REP. STROBECK: If the Certificate of Need is going to show this home isn't needed, then it would be foolish to proceed and built it. This is the validation for proceeding with the nursing home if the Certificate of Need shows that it is, in fact, needed.

388	VOTE:	4-7	
	AYE:		4 - Clarno, Grisham, Hayden and Markham
	NAY:		7 - Johnston, Lehman, Ross, Starr, Strobeck, Wylie and Tiernan
	EXCUSED:		1 - Roberts

CHAIR TIERNAN: Declares the motion FAILS.

407 MOTION: REP. STARR moves to further amend HB 2761-1 amendments by deleting the reference to "war".

REP. JOHNSTON: What is the status of the first nursing home? Was the first home "veterans" or "war veterans"?

TAPE 136, B

002 MR. HUGHES: The Department of Veterans' Affairs has advised that the word "war" needs to remain in the amendments.

003 REP. STARR withdraws motion.

005 REP. GRISHAM: Comments about the long discussion and "hand wringing" to create a home for those people who gave so much so that we could be here to

make that decision today. Urges a "yes" vote.

REP. ROSS: Respectfully disagrees. Provides explanation and states objection is "because it is bad for veterans. . . . It is bad for the State of Oregon . . . the veterans and it is a foolish use of federal money." Opines such a position doesn't show any disrespect for people who fought in any war. This is not a home that is needed. The viewpoint of saving federal money is consistent with a lot of veterans' values.

027 MOTION: REP. MARKHAM moves to HB 2761, as amended, to the Floor with a DO PASS recommendation.

COUNSEL MOORE: This bill has a subsequent referral to the Committee on Ways and Means. It does have a "dollar impact". The Committee may wish to consider rescinding that referral.

034 REP. MARKHAM withdraws motion.

MOTION: REP. JOHNSTON moves to rescind the subsequent referral to the Committee on Ways and Means by prior reference.

CHAIR TIERNAN: Hearing no objection, declares the MOTION PASSED. REPS. CLARNO and ROBERTS are EXCUSED.

043 MOTION: REP. GRISHAM moves HB 2761, as amended, to the Floor with a DO PASS recommendation.

046 REP. ROSS: FOR THE RECORD: Objects to passage of the bill as a waste of federal money; the home is not needed by the State of Oregon; it is bad for seniors that are here, because it is a bad effect on the current nursing home system; and the facilities that are being built are not in line with veterans' needs. Veterans need "assisted" living rather than "skilled" nursing care. Skilled nursing is selected, because it is the way to get the most federal money. Veterans, in order to access this home,

will have to leave their homes/communities and travel a long way. This is a "bad" bill/policy and it is not consistent with "those folks who want a balanced federal budget. However, I want to say I respect all veterans, including the ones in this room."

058 REP. JOHNSTON: Points out that is what the Certificate of Need is designed to do. If the proposed home meets the "need" test, it should be built. If it doesn't meet the "need" test, it shouldn't be built.

REP. LEHMAN: Explains doubts about the proposed home. Opines the proper balance has been achieved by putting in the Certificate of Need process and that it is a good bill that should be passed.

070 VOTE: 10-0

AYE: 10 - Grisham, Hayden, Johnston, Lehman, Markham, Ross, Starr, Strobeck, Wylie and Tiernan
EXCUSED: 2 - Clarno and Roberts

CHAIR TIERNAN: Declares the motion CARRIES. REP. VERAL TARNO will lead the Floor discussion.

085 CHAIR TIERNAN: Closes work session on HB 2761 and opens work session on HB 3419.
HB 3419 - WORK SESSION

Witness: Butch Harbaugh, Bikepack of Oregon

090 CHAIR TIERNAN: Provides brief explanation regarding return of the bill to the Committee.

REP. HAYDEN: Gives history of work in the Subcommittee on Transportation and that it came to the Full Committee with the recommendation that it be referred back to the voters, because the voters by initiative wanted the motorcycle riders to wear helmets. Opines that the provision to refer back to the voters should be reinstated in the bill before it moves to the Floor of the House.

116 MOTION: REP. HAYDEN moves ADOPTION of proposed HB 3419-2 amendments.

ANNE TWEEDT, Committee Counsel: Proposed HB 3419-2 amendments say "this Act shall be submitted to the people for their approval or rejection at the next statewide general election."

132 REP. JOHNSTON: Explains vote to send HB 3419 to the Floor without the referral and a do pass recommendation, because opines that is what should be the law. Adults should make their own decision about whether or not to wear helmets.

REP. STROBECK: Acknowledge a similar vote history. Supports moving the bill forward with a referral in order to keep it alive.

159 REP. LEHMAN: It may be advisable to pass the bill out with a Minority Report for a referral or whatever thereby giving the people on the Floor the opportunity to vote on whether or not it should be referred or rescinded.

181 REP. JOHNSTON: Intends to vote "no" since the referral was at the behest of the people.

REP. LEHMAN: If the HB 3419-2 amendments are passed, the majority report would be for referral to the people.

CHAIR TIERNAN: Correct.

REP. ROBERTS: Opposes the HB 3419-2 amendments.

221 BUTCH HARBAUGH, Legislative Director, Bikepack of Oregon: Refers to information submitted that "Yes, it was a referral to the people." Provides history on the issue.

CHAIR TIERNAN: Explains the potential Floor vote and process.

296 VOTE: 10-1
AYE: 10 - Hayden, Johnston, Lehman, Markham, Roberts, Ross, Starr, Strobeck, Wylie and Tiernan
NAY: 1 - Grisham
EXCUSED: 1 - Clarno

CHAIR TIERNAN: Declares the motion CARRIES.

300 MOTION: REP. STARR moves HB 3419, as amended, to the Floor with a DO PASS recommendation.

302 VOTE: 9-2
AYE: 9 - Grisham, Hayden, Johnston, Markham, Ross, Starr, Strobeck, Wylie and Tiernan
NAY: 2 - Lehman and Roberts
EXCUSED: 1 - Clarno

CHAIR TIERNAN: Declares the motion CARRIES. REP. Bryan Johnston will lead discussion on the floor.

315 REPS. ROBERTS and LEHMAN: Serve Notice of a Minority Report.

381 CHAIR TIERNAN: Closes work session on HB 3419.

CHAIR TIERNAN: Declares a recess as 3:30 pm.

CHAIR TIERNAN: Reconvenes session at 3:35 pm and opens work session on SB 676 A.

SB 676 A - WORK SESSION

404 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).

424 MOTION: REP. JOHNSTON moves SB 676A to the Floor with a DO PASS recommendation.

REP. STROBECK: Intends to vote "yes"; however, continues to be concerned about going to \$1,500 for little charity bingo games and may not vote affirmatively on the Floor.

449 VOTE: 7-1
AYE: 7 - Grisham, Johnston, Roberts, Starr, Strobeck, Wylie and

Tiernan

NAY: 1 - Hayden
EXCUSED: 4 - Clarno, Lehman, Markham and Ross

CHAIR TIERNAN: Declares the motion CARRIES. REPS. Lonnie Roberts and BRYAN JOHNSTON will lead discussion on the floor.

CHAIR TIERNAN: Closes work session on SB 676 A and opens work session on SB 550 A.

TAPE 137, B

SB 550 A - WORK SESSION

Witness: Gary Sadler
Chris Lyons, Oregon Liquor Control Commission (OLCC)

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

044 REP. HAYDEN: Notes in Section 2 that the product must be clearly labeled to reflect the alcohol content and it says that it may not be sold to a person who is under the age of 21. Concerned that unless it is clearly labeled, parents could unwittingly give the product to their small children.

053 MOTION: REP. ROBERTS moves SB 550 A to the Floor with a DO PASS recommendation.

CHAIR TIERNAN: What was the vote in the Senate?

COUNSEL MOORE: The vote in the Senate was 19 to 10.

064 DICK SADLER: Testifies in support of SB 550 A. There is a "hole in the process", because the OLCC isn't equipped nor interested in handling these types of products in their stores. The statute is extremely strict. Such products are banned in the State of Oregon, because the liquor stores aren't able to handle them and the product cannot be sold anywhere else. Under the current statute, the only place these products can be sold is in the state's liquor stores.

076 CHAIR TIERNAN: If this bill passes, where can they be sold?

MR. SADLER: Any store that currently has a liquor permit for, particularly, beer or wine. Acknowledges involvement in a company that wants to manufacture and sell some of these products.

CHAIR TIERNAN: What was the issue in the Senate?

MR. SADLER: These products could be sold in stores that currently sell beer and wine, that is the intent of the bill. Some concern in committee about consumption by and availability of these products to minors.

097 CHRIS LYONS, Administrator, Oregon Liquor Control Commission: Agrees with Mr. Sadler's testimony that OLCC's issue was primarily the small chocolate with liquor in the center and the state liquor stores do not have

the capacity to market those products -- the product is not really profitable. There is the opportunity for the local grocery store to market

those products. Opines that the safeguards are in place in terms of selling the product to minors and that selling the product to minors would result in a fine. Explains the debate in the Senate about the products with somewhat more alcoholic content.

115 REP. HAYDEN: This was because it was a distilled liquor and not beer or wine?

MS. LYONS: That's correct.

MR. SADLER: Points out there was much debate and compromise on the issue.

The current alcoholic volume standards for beer are 14 percent and for fortified wine are 21 percent. The design of the bill was to specifically make every effort that the alcoholic limits for volume under these products

is significantly below those alcoholic standards for current beer and wine.

The language in the bill does provide that the products cannot contain more than 10 percent by volume (i.e., a product that is four points below what current beer can be in the stores).

142 REP. ROBERTS: Responsibility rests with the parents. Refers to a past session whereby the law was changed to allow candy makers to use rums and brandies as a flavoring (i.e., once cooked, the alcohol is gone). These new products contain alcohol, but it is at a very low level.

153 VOTE: 8-2
AYE: 8 - Grisham, Johnston, Markham, Roberts, Ross, Strobeck, Wylie and Tiernan
NAY: 2 - Hayden and Starr
EXCUSED: 2 - Clarno and Lehman

CHAIR TIERNAN: The motion CARRIES. REP. Lonnie Roberts will lead discussion on the floor.

160 CHAIR TIERNAN: Recesses session.

CHAIR TIERNAN: Reconvenes session at 4:15 pm.

CHAIR TIERNAN: Opens work session on SB 13 A.

SB 13 A - WORK SESSION

Witnesses: Joe Dobbes (Clackamas)
Gary Conkling, Oregon Winegrowers' Association
Paul R. Romain, Oregon Beer & Wine Distributors Association
Chris Lyons, Oregon Liquor Control Commission (OLCC)

171 ANNE TWEEDT, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary and related documentation are hereby made a part of these Minutes (EXHIBIT I).

211 JOE DOBBES (Clackamas): Testifies in support of SB 13 A. Opines small cottage industry needs as much help as possible in marketing the product by shipping a limited amount of wine to customers. Current system is "heavily tipped in favor of the much larger wineries."

241 REP. ROBERTS: Are you referring to case sales?

MR. DOBBES: Yes or a half case or a even a couple of bottles from one customer to another.

REP. ROBERTS: This bill does not say that you are required to ship less than a case?

MR. DOBBES: Not that I am aware of.

251 GARY CONKLING, Oregon Winegrowers' Association: Testifies in support of SB 13 A. The bill is setup whereby shipments are up to two cases. What has been contemplated is in fact case sales.

MR. DOBBES: With the distribution system as weighted as it is against the small winery, wineries are not able to do that; therefore, much help is needed as a growing cottage industry to be able to market their products.

266 REP. JOHNSTON: Supports the intent of SB 13 A. Comments about the opposition's concerns. Suggests possible amendment to include some reporting requirements.

REP. ROBERTS: It is a growing and quality industry that Oregon wines have done quite well competitively around the world.

283 PAUL R. ROMAIN, Oregon Beer & Wine Distributors Association: Testifies from prepared testimony on SB 13 A. Submits prepared testimony and proposed amendments dated May 9, 1995 (EXHIBIT J).

- > Explains what wineries can do currently.
- > Discusses problems of delivery and unfair competition.
- > Provides details about proposed amendments.

381 CHRIS LYONS, Administrator, Oregon Liquor Control Commission: Testifies from prepared testimony on SB 13 A. Submits prepared testimony (EXHIBIT K).

FOR THE RECORD: OLCC is neutral on the bill.
> Issue is sales to minor and visibly intoxicated persons.

> Explains the law change in 1989 and the compromise through delivery carriers.

> Discusses the possibility of OLCC tightening up the rule through rulemaking that would delineate whether or not the delivery is entering the state or delivered throughout the state.

REP. MARKHAM: Refers to testimony by Paul R. Romain. How many concerns has OLCC received since out-of-state wines have been allowed to come into the state?

TAPE 138, A

007 MS. LYONS: This is the first instance that has come to the attention of OLCC.

CHAIR TIERNAN: Isn't that a violation of existing law?

MS. LYONS: That's correct.

011 MR. CONKLING: That's correct. There have not been widespread reports. It is unlikely that a teenager will order some wine, have it delivered 24 hours later and come up with \$200. Agrees that as an industry they are willing to work with OLCC, because OLCC has existing authority to ensure enforcement.

027 MR. ROMAIN: Points out there is no real liability by UPS, the shipper, or a reporting requirement on them. There is no incentive to follow the law, because nothing can happen. Opines there must be control on the delivery carriers.

048 REP. JOHNSTON: Does OLCC have any way administratively by rule of gathering the raw figures in terms of what comes in/goes out of the state?

MS. LYONS: No.

REP. JOHNSTON: Is that something OLCC could do through its rulemaking authority?

MS. LYONS: It would require checking with the Attorney General's office. OLCC does have the authority in terms of the issue of delivery and requiring greater scrutiny of the customer; however, UPS said they weren't interested.

058 REP. HAYDEN: How much is the tax on a bottle of wine?

MS. LYONS: 67 cents a gallon.

REP. STROBECK: What is the relationship between the selling by mail from the winery versus through the wine shops?

MR. CONKLING: Recounts conversations with retailers. The practicality is this bill will provide a further efficiency in the delivery of wines that now are not available on grocery shelves or restaurant menus.

REP. STROBECK: Why do the shops oppose it?

MR. CONKLING: Opines some shops believe there will be unfair competition.

095 REP. HAYDEN: Thinks the issue has enough substance that the legislature should address it in some way if, in fact, ordering beer, wine or distilled by mail is a growing industry. Opines the state should be in the forefront of the issue and OLCC may not have the "clout" to administratively act.

112 CHAIR TIERNAN: Provides explanation about the current state of the law.

150 MOTION: REP. ROBERTS moves ADOPTION of proposed amendments dated May_9, 1995.

159 REP. JOHNSTON: Reads from Section 3 of the proposed amendments dated May 9, 1995. Will the fact that an out-of-state wine supplier must obtain a license from OLCC affect reciprocity?

MS. LYONS: Yes. Doubts that UPS will apply for such a permit.

CHAIR TIERNAN: What is OLCC's position on the proposed May 9, 1995,

amendments?

MS. LYONS: No position, because it has not been reviewed by the commission.

176 REP. HAYDEN: Suggests an amendment that deletes subsection (7) from the amendments.

191 VOTE: 1-9
AYE: 1 - Roberts
NAY: 9 - Grisham, Hayden, Johnston, Lehman, Markham, Starr, Strobeck,
Wylie and Tiernan
EXCUSED: 2 - Clarno and Ross

CHAIR TIERNAN: Declares the motion FAILS.

MOTION: REP. HAYDEN moves the ADOPTION of a conceptual amendment to the proposed May 9, 1995 amendments by deleting subsection (7).

REP. HAYDEN: Opines that the proposed conceptual amendment will solve a potential, growing problem.

221 MS. LYONS: Presumes if there was an illegal delivery that, because UPS is not licensed, OLCC would cite them as anyone else who is not licensed by the commission.

MR. CONKLING: Under ORS 471.410 there is authority for a citation against a non-licensee for an illegal delivery to anyone under age 21.

MR. ROMAIN: Wants OLCC to have the ability to get at the problem.

MS. LYONS: The problem would be addressed through a citation; however, in terms of the rule OLCC would not strengthen the requirements.

241 MR. DOBBES: What about the minor and the parental responsibility for that minor?

CHAIR TIERNAN: They will both be cited.

REP. STROBECK: Was it the testimony that OLCC already has the ability to issue citations?

MS. LYONS: Under current statute OLCC could cite UPS for this illegal delivery.

REP. STROBECK: How would you find out about it?

MS. LYONS: Someone would have to complain.

273 VOTE: 6-4
AYE: 6 - Grisham, Hayden, Lehman, Roberts, Starr and Wylie
NAY: 2 - Johnston, Markham, Strobeck and Tiernan
EXCUSED: 2 - Clarno and Ross

CHAIR TIERNAN: Declares the motion CARRIES.

284 MOTION: REP. MARKHAM moves SB 13 A to the Floor with a DO PASS recommendation.

305 CHAIR TIERNAN: Explains a vote of seven members is required to amend the measure.

REP. MARKHAM: Withdraws motion.

MOTION: REP. JOHNSTON moves to reconsider the vote on SB 13 A and to ADOPT the conceptual amendment to the proposed May 9, 1995, amendment as proposed by REP. HAYDEN that deletes subsection (7).to amend the bill

321 VOTE: 8-2
AYE: 8 - Grisham, Hayden, Johnston, Lehman, Markham, Roberts, Starr and Wylie
NAY: 2 - Strobeck and Tiernan
EXCUSED: 2 - Clarno and Ross

CHAIR TIERNAN Declares the motion CARRIES.

334 MS. LYONS: Is it the understanding that OLCC was not going to

strengthen its rule, because UPS would not deliver into the state, and that the Committee is telling OLCC to cite UPS or any other delivery person when OLCC has knowledge?

CHAIR TIERNAN: Yes, when OLCC has knowledge.

349 MOTION: REP. MARKHAM moves SB 13 A, as amended, to the Floor with a DO PASS recommendation.

354 VOTE: 10-0
AYE: 10 - Grisham, Hayden, Johnston, Lehman, Markham, Roberts, Starr, Strobeck, Wylie and Tiernan
EXCUSED: 2 - Clarno and Ross

CHAIR TIERNAN: Declares the motion CARRIES. REP. Ken Strobeck will lead discussion on the floor.

CHAIR TIERNAN: Adjourns meeting at 5:01 pm.

Submitted by, Reviewed by, Reviewed by,

Kay C. Shaw	Gregory G. Moore	Anne E. Tweedt
Committee Assistant	Committee Counsel	Committee Counsel

EXHIBIT SUMMARY:

A - Preliminary Staff Measure Summary on SB 332 -- Staff -- 2 Pages
B - Prepared Testimony on SB 332 -- Capt. James H. Stevenson -- 5 Pages
C - Preliminary Staff Measure Summary on SCR 9 -- Staff -- 3 Pages
D - Preliminary Staff Measure Summary on HB 2125 and Proposed HB 2125-1 Amendments -- Staff -- 5 Pages
E - Preliminary Staff Measure Summary on HB 2761 and Proposed HB 2761-1 and HB 2761-2 Amendments -- 5 Pages
F - Prepared Testimony on HB 2761 -- Richard P. Lucht -- 2 Pages
G - Preliminary Staff Measure Summary on SB 676 -- Staff -- 2 Pages
H - Preliminary Staff Measure Summary on SB 550 -- Staff -- 2 Pages
I - Preliminary Staff Measure Summary and related documentation on SB 13 -- Staff -- 28 Pages
J - Prepared Testimony on SB 13 and Proposed SB 13 Amendments dated May 9, 1995 -- Paul R. Romain -- 14 Pages
K - Prepared Testimony on SB 13 -- Chris Lyons -- 1 Page