

HOUSE COMMITTEE ON  
GENERAL GOVERNMENT AND REGULATORY REFORM  
SUBCOMMITTEE ON TRANSPORTATION

Hearing Room  
Tapes -25

MEMBERS PRESENT:

Rep. Cedric Hayden, Chair  
Rep. Lonnie Roberts, Vice-Chair  
Rep. Jerry Grisham  
Rep. Mike Lehman  
Rep. Bill Markham  
Rep. Ken Strobeck

STAFF PRESENT:

Anne Tweedt, Committee Counsel  
Annetta Mullins, Committee Assistant

MEASURES HEARD:

HB 2134 - WORK SESSION  
HB 2874 - WORK SESSION  
HB 2722 - WORK SESSION  
HB 2759 - PUBLIC HEARING AND WORK SESSION  
HB 2756 - PUBLIC HEARING AND WORK SESSION  
HB 3419 - PUBLIC HEARING  
HB 3422 - PUBLIC HEARING

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

008 CHAIR HAYDEN: Calls the meeting to order at 1:22 p.m. and opens the work session on HB 2134.

HB 2134 - WORK SESSION

MS. TWEEDT: Reviews the Preliminary Staff Measure Summary and the HB 2134-1 amendments (SEE EXHIBIT T OF SUBCOMMITTEE MINUTES DATED APRIL 4, 1995). The -1 amendments fill in the blanks in the original bill with the cost responsibility figures provided by ODOT and make changes to registration fees for vehicles weighing 8,001 to 26,000 pounds, change the flat fee rates and reduce the road use assessment fee; all would reflect cost responsibility numbers.

043 REP. ROBERTS: Requests that Mr. Russell explain the flat fee rates in the -1 amendments.

043 BOB RUSSELL, Public Utility Commission: Explains the -1 amendments add in the cost responsible rates. On page 3 of the amendments, the rate for log trucks would change from \$6 to \$5.55 per hundred pounds. For dump trucks it would go from 30 cents to 50 cents per hundred pounds.

REP. ROBERTS: You are lowering all the fees except you are raising the fees for dump trucks.

061 MR. RUSSELL: Explains that is based on the study.

077 MIKE MEREDITH, Oregon Trucking Association: Request adoption of the -2 amendments (EXHIBIT A). The industry has concern about the feasibility of an axle weight distance tax on trucks 26,000 to 80,000. It makes a complex

tax more complex and the tax rates in the bill are not going to encourage more axles. Explains the -2 amendments keep the 6.2 reduction of cost responsibility, but delete reference to the axle weight distance tax portion

091 REP. ROBERTS: Do you support the -1 amendments?

092 MR. MEREDITH: I don't know what the -1 amendments are.

095 MS. TWEEDT: Repeats her explanation of what the -1 amendments do.

097 CHAIR HAYDEN: Are you supporting the -1 amendments?

098 MR. MEREDITH: I support the -1 and -2 amendments.

101 MOTION: REP. ROBERTS moves that the HB 2134-1 amendments BE

ADOPTED.

VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the

motion PASSED. REP. MARKHAM IS EXCUSED.

102 MOTION: REP. ROBERTS moves that the HB 2134-2 amendments BE ADOPTED.

104 MS. TWEEDT: Advises the committee that the HB 2134-1 and HB 2134-2 amendments conflict. One extends the axle tax to trucks below 80,000 pounds and one doesn't. In addition, the figures in Table A in the -2 amendments don't reflect cost responsibility. I was given today by ODOT a list of cost responsibility rates. Would Mr. Meredith object to putting the cost responsibility figures in Table A?

REP. ROBERTS: Withdraws his motion.

112 MR. MEREDITH: No, I don't.

112 MS. TWEEDT: The only figures that would be in the -2 amendments would be cost responsibility numbers. The only thing the industry would object to is extending the axle tax to vehicles that weight less than 80,000 pounds.

115 MR. MEREDITH: That is correct.

120 MR. RUSSELL: If we went with the -2 amendments, would we also include the adjustment for the flat fees and the registration fees for the vehicles

between 8,000 and 26,000 that were included in the -1 amendments? That was part of the cost responsibility adjustment.

131 MS. TWEEDT: The question is whether the committee wants to extend the axle tax. Everybody agrees on the cost responsibility figures.

132 REP. GRISHAM: Can we accomplish what you were trying to do simply by considering the -1 amendments?

137 MR. RUSSELL: If you take the -1 amendments and put the cost responsibility rates for Table A into those, it eliminates the axle tax between 26,000 and 80,000 pounds. The rest of the adjustments remain in tact.

148 MS. TWEEDT: Is it the committee's intent to not extend the program below 80,000 pounds?

163 BILL PENHALLOW, Association of Oregon Counties: At the initial hearing on this bill, the testimony was cut short because of time limitations. Mr.

Barenberg of the League of Oregon Cities and I indicated we would like to discuss with the committee the impacts of the -2 amendments if nothing else

is done. It would be our preference that the discussion of the -2 amendments be reserved for consideration in a highway financing package that would hopefully at a minimum zero out the impact these amendments would have on the cities and counties. I have the costs of impacts on counties. It would cost the count road funds \$2.3 million annually because

cost responsibility does reduce the truckers' contribution to the Highway Fund. It is \$9.5 million annually; the counties' share is \$2.3 million.

171 REP. ROBERTS: If truckers pay more than cost responsibility, they pay more than they should.

202 MR. PENHALLOW: Historically, Oregon has considered cost responsibility in setting responsibility between the basic vehicle and the truck. When the shift in percentage is in favor of the trucking industry, there is an impact on the Highway Fund. If we don't have a transportation package come

out of this legislature, there will be a net reduction in the revenues flowing to the counties. This is compounded by the fact that we are realizing a net reduction in total revenues already of about \$6 to \$7 million because of the dilemma on the harvest of timber on public lands. I

would urge that at a minimum, we try to neutralize that because I think the

trucking industry is due this adjustment because the cost responsibility study does say it is out of kilter.

213 REP. ROBERTS: You asked that we hold the -2 amendments for some other bill.

228 MR. PENHALLOW: My preference would be since there is a hearing scheduled on HB 2213 for Thursday in the House State and School Finance Committee that this kind of amendment be considered in that overall funding

bill and give that committee the opportunity to look at the consequences of

adjusting these weight tables along with other revenue considerations. We would hope at a minimum we can zero base the revenue impact to the state and local governments.

247 REP. ROBERTS: There is no assurance the State and School Finance committee will do anything.

249 CHAIR HAYDEN: There is a policy decision on whether we want to leave the weight at 80,000 to 20,000. If we resolve that today, Committee Counsel can guide us through the -1 and -2 amendments and move the bill out. Or we can come back to it another day.

260 REP. ROBERTS: Asks for an explanation of the 80,000/20,000?

274 MR. MEREDITH: Explains the findings of the cost responsibility study.

276 REP. ROBERTS: I want to leave it above 80,000.

278 MOTION: REP. ROBERTS moves to retain the incentive program for axles  
80,001 pounds and up.

289 REP. STROBECK: Comments he would be inclined to go with the lower  
weight.

290 REP. ROBERTS: At 26,001, there is no incentive. We might want to drop  
it from 80,000 to 60,000 or 40,000, or somewhere in between. To go to  
26,000 pounds is fruitless.

303 MR. PENHALLOW: This bill has a subsequent referral to State and School  
Finance. We would not object to passing it out even with the -2  
amendments.

313 REP. STROBECK: I am on the State and School Finance Committee and I  
would not want to go through all this testimony again. I would rather make  
a decision at this point. If Rep. Roberts says 26,000 is too low, I would  
tend to agree with him and 80,000 seems a little heavy. Maybe we can split  
the difference if there is something reasonable.

324 CHAIR HAYDEN: If we arbitrarily pick a number, does everything work?

329 MR. MEREDITH: The only people who are satisfied with the so-called axle  
weight distance tax are the tax collectors. The tax payers are very  
frustrated because Oregon's tax system is incredibly complex. My members  
are telling me the whole concept made great theory, but it is an  
administrative nightmare for us. We would be opposed to an arbitrary  
figure because we are fundamentally opposed to the concept of the axle  
weight distance tax.

342 CHAIR HAYDEN: Would the change from 26,000 to 80,000 make any  
difference to the counties?

344 MR. PENHALLOW: I am not sure we would have any expertise or testimony  
in that area, but would rely upon the research that was done by the  
Department of Transportation.

350 MR. RUSSELL: We proposed the bill with the axle tax extending down to  
26,000 because we thought it was a good idea; we thought it worked well  
over 80,000 pounds. Certainly there are some complexities to our weight  
mile tax system and a lot of those complexities have been designed into the  
system to help tax payers minimize their tax burden. One of the issues we  
are confronted with is changes in vehicle configurations and declared  
weights. That is not very prevalent when you get below 80,000 pounds.  
The axle weight distance tax has worked very well over 80,000 and we have  
seen the additional axles under heavy trucks on the road which has  
minimized the wear and tear on our highways. To what extent moving it down  
to 26,000--I don't have a number for what it will save in highway wear, but  
it is our believe it will be a positive number.

371 CHAIR HAYDEN: If this committee were to compromise and pick a number  
between 26,000 and 80,000, will you be able to make it work?

374 MR. RUSSELL: If you were to do that, I would recommend a break at  
46,000 pounds.

403 REP. STROBECK: Suggest Rep. Roberts amend his motion to go to 46,000.

417 REP. ROBERTS: Can you make a break and leave LTL alone and go to dump  
trucks at 46,000?

420 MR. RUSSELL: If we were to introduce that kind of complexity in  
differentiation between segments of the industry, I think I would prefer to  
leave Table A alone.

434 REP. STROBECK: Rep. Roberts and Mr. Russell are more familiar with the  
industry than I, and I am relying on what they are saying.

445 REP. ROBERTS: I have tried to establish an incentive in the system to  
encourage trucking companies to add axles. But they can't do that. All  
they have done is complicate the system even more.

453 REP. STROBECK: With that advice, I will support your amendment.

457 VOTE: In a roll call vote (on Rep. Roberts motion), all members present  
vote AYE. REP. MARKHAM IS EXCUSED.

462 CHAIR HAYDEN: Declares the motion PASSED.

466 MS. TWEEDT: Explains that the committee has restored Table A. You have  
said the weight mile will be 80,000 and above. The committee now needs to  
make a decision whether or not they want to put the cost responsibility  
figures in Table A and Table B.

489 MOTION: REP. ROBERTS moves to restore the cost responsibility language  
to the HB 2134-2 amendments.

494 VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the  
motion PASSED. REP. MARKHAM IS EXCUSED.  
TAPE 23, A

034 MOTION: REP. ROBERTS moves that HB 2134, as amended, be sent to the  
Full Committee with a DO PASS RECOMMENDATION AND THAT IT BE REFERRED TO THE  
COMMITTEE ON STATE AND SCHOOL FINANCE IN ACCORDANCE WITH ITS PRIOR  
REFERRAL.

037 MS. TWEEDT: Explains that HB 2134, as amended, would clarify that the  
axle tax applies to vehicles weighing 80,001 and greater. In addition, the  
new rates in Table A and Table B will be filled in with the cost  
responsibility figures provided by ODOT. In addition, the additional rate  
changes that were in the -1 amendments for registration fees, changing the  
flat fee rates and reducing the road use assessment fees will reflect cost  
responsibility figures.

045 REP. ROBERTS: The cost responsibility figures are in the -1 amendments.

946 MS. TWEEDT: That is correct, except for Table A. Those cost  
responsibility figures were just given to me this morning.

048 REP. ROBERTS: Those will be filled in by the time the bill gets to the  
Full Committee.

048 MS. TWEEDT: There will be revised amendments for the Full Committee.

055 VOTE: In a roll call vote, all members present vote AYE. REP. MARKHAM  
IS EXCUSED.

057 CHAIR HAYDEN: Declares the motion PASSED. REP. ROBERTS will carry the  
bill in Full Committee.

059 CHAIR HAYDEN: Closes the work session on HB 2134 and opens the work  
session on HB 2874.

060 HB 2874 - WORK SESSION

058 MS. TWEEDT: Reviews the Preliminary Staff Measure Summary, -2  
amendments and Legislative Fiscal Analysis (EXHIBIT B).

085 MOTION: REP. STROBECK moves that the HB 2874-2 amendments BE ADOPTED.

088 VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the  
motion PASSED. REP. MARKHAM IS EXCUSED.

090 MOTION: REP. STROBECK moves that HB 2874, as amended, be sent to the  
Full Committee with a DO PASS RECOMMENDATION AND THAT THE BILL BE SENT TO  
THE COMMITTEE ON WAYS AND MEANS IN ACCORDANCE WITH ITS PRIOR REFERENCE.

092 VOTE: In a roll call vote, all members present vote AYE. REP. MARKHAM  
IS EXCUSED.

094 CHAIR HAYDEN: Declares the motion PASSED. REP. BAUM will lead  
discussion on the bill.

098 CHAIR HAYDEN: Closes the work session on HB 2874 and opens the work  
session on HB 2722.

099 HB 2722 - WORK SESSION

100 MS. TWEEDT: Reviews the Preliminary Staff Measure Summary on HB 2722  
(EXHIBIT C).

105 REP. STROBECK: Testimony raised some question about the interpretation  
of this bill being in potential conflict with ORS 830.335 which requires a  
boat operator to maintain a constant forward look out. I don't have a  
serious problem with this, but would recommend we modify the language  
"continuously" to something along the lines of "easily" or "conveniently"  
or "readily" so the statute does not require the operator to be looking two  
places at the same time.

117 CHAIR HAYDEN: To me, the semantics of the law would be wrong because a  
person cannot properly operate a vehicle if the person is continuously  
forward.

129 REP. STROBECK: We also had testimony about the responsibilities of the  
operator and perhaps we should also look at, by rule, having some various  
waterways exempted from this provision--congested areas, or when posted.

149 CHAIR STROBECK: Would it be permissible under this bill for the Marine  
Board to adopt rules that would prohibit this, in some cases, from going  
into effect? Could they post some areas?

153 MS. TWEEDT: That question was asked of the Marine Board at the hearing.  
My understanding is they were not adverse to doing that, but the  
proponents of the bill as drafted, said it would be a logistical nightmare  
trying to determine where it would apply.

163 REP. STROBECK: My recommendation would be that the Marine Board adopt rules that would say when this would be a safety hazard to have only one person in the boat that they would post areas where a second observer would

be required. It would be on congested waterways. It don't think it is any different than have speed limits or other posted prohibitions.

170 REP. LEHMAN: I will vote against this bill. I believe everyone has a right to be a boat operator and skier and to be there with one person in the boat. Unfortunately, this also puts at risk other people on the water.

In that regard, we have some obligation to them that if they are going to be out there skiing, they are observing everybody else on the water, not just the skier behind them.

179 CHAIR HAYDEN: Closes the work session on HB 2722 and asks that Rep. Repine be called.

181 CHAIR HAYDEN: Opens the public hearing on HB 2759 and HB 2756.

184 HB 2759 - PUBLIC HEARING

186 MS. TWEEDT: Reviews the Preliminary Staff Measure Summary and the -1 and -2 amendments (EXHIBIT D), and the Preliminary Staff Measure Summary and the -1 and -2 amendments (EXHIBIT E ).

> the HB 2759-1 amendments specify that no one whose driving privileges were suspended or revoked could operate a Class I or III ATV and also permit the operation of Class I, II and III ATVs on any highway that is open to the public but is not maintained for passenger car traffic. The amendments also modify the definition of ATVs because one type of ATV now has a seat instead of a saddle.

> the HB 2759-2 amendments specify that the helmet requirement does not apply to persons or activities listed in ORS sections that pertain to farming, agricultural operations, Christmas tree growing operations.

223 > the HB 2756-1 amendments are housekeeping and clarification

> the HB 2756-2 amendments create a new offense modeled after the bicycle helmet law

284 BOB GREENSTREET, Trails Coordinator, Oregon Off-Highway Vehicle Association: Testifies in support of HB 2759

> requires helmets to be worn by anyone 18 operating the off-highway motorcycle or the off-highway Class I, the small four-wheeler or a three-wheeler.

> many times the vehicles are used as baby sitters and they ride without protective head gear

311 > currently a person who has lost a license for drunken driving can still ride an off-highway vehicle if they are with someone on another machine that does have a license.

> if a person has lost his/her license for drunken driving, we would just as soon not have that person out with us either.

> Section 7 on the -1 amendments would make it illegal for someone who lost their license to operate a motorcycle or ATV

327 CHAIR HAYDEN: Does a person have to have a license to operate a vehicle off road?

318 JOANNE PETERSON, DMV: Depending on the class of vehicle. For a Class III the person has to have a drivers license to operate off the road. A Class III is basically an off-road motorcycle with two wheels and is less than 600 pounds.

355 MR. GREENSTREET: On the Class I ATVs, small three- and four-wheelers if you are with a person with a license or a Class I ATV permit, you can operate without a permit or license.

362 REP. HAYDEN: This is to allow minors to participate.

362 MR. GREENSTREET: It was set up for the under-age ATV driver.

395 > we were requested to submit the provision on the drunk drivers by the enforcement people at the dunes

TAPE 22, B

012 MR. GREENSTREET: Continues his comments on the history of statutes on ATVs.

022 MR. HARBAUGH: HB 2759 cleans up the licensing process.

029 REP. ROBERTS, MR. GREENSTREET AND MS. PETERSON: Discuss licensee and age requirements for licenses.

056 BUTCH HARBAUGH, Legislative Director, Bike PAC of Oregon: Concerns with HB 2759 are:

> implementation of ordinary fine is not as effective as directing the person to be taking rider courses or education or do community service.

> helmets that are sold are safe and meet the requirements of the policing community as to their acceptance that the product is safe.

085 MR. GREENSTREET: (relating to Sections 8 and 9 of -1 on HB 2759, it has

come to our attention in the last six months that if we use sections of forest service and BLM roads in the trail system, street-legal machines must be used because the roads are open to the public. The Forest Service and BLM have advised that due to budget restraints they will be removing a

multitude of roads from their maintenance systems for passenger cars. This amendment would address the fact that we would be using a section to get to

another section. Section 9 relates to the seat or saddle and determines which type of permit the operator needs.

115 CHAIR HAYDEN: Closes the public hearing on HB 2759 and HB 2756 and opens the work session on HB 2759.

118 HB 2759 - WORK SESSION

119 REP. STROBECK: Does the \$190 fine come from the Class C traffic infraction?

121 MS. TWEEDT: Yes.

133 CHAIR HAYDEN: Requests that the committee address each item bulleted on the Staff Measure Summary on HB 2759 (EXHIBIT D).

140 REP. STROBECK: Suggests that in the first bullet under the -1 amendments, the language be changed to "while" instead of "if" because Mr. Greenstreet was only talking about while the license is suspended.

BY CONSENSUS the committee supports the issues under bullets 1 and 2.

152 REP. GRISHAM: A concern I have is children 11 years and younger. If we are going to authorize this, we need to have some age at which they cannot operate the vehicles.

161 MS. TWEEDT: HB 2756 is a companion bill to HB 2759 and if the committee is going to consider passing HB 2759, I would think it would be because they are interested in entertaining HB 2756. HB 2756 would be the appropriate bill to include age limitations on the permitting process.

174 MS. TWEEDT: Reviews page 2 of the -1 amendments

204 MS. TWEEDT: Reviews the -2 amendments requested by the Oregon Farm Bureau

219 MOTION: REP. STROBECK moves that the HB 2759-1 amendments, with changes made on line 23 for prohibition of when someone could operate, and the HB 2759-2 amendments BE ADOPTED.

227 VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the motion PASSED. REP. MARKHAM IS EXCUSED.

229 MOTION: REP. STROBECK moves that HB 2759, as amended, be sent to the Full Committee with a DO PASS RECOMMENDATION.

231 VOTE: In a roll call vote, all members present vote AYE. REP. LEHMAN IS EXCUSED.

236 CHAIR HAYDEN: Declares the motion PASSED. REP. TARNO will lead discussion on the bill.

245 CHAIR HAYDEN: Closes the work session on HB 2759 and opens the public hearing on HB 2756.

254 HB 2756 - PUBLIC HEARING

Witnesses: Bob Greenstreet, Oregon Off-Highway Vehicle Association  
Joanne Peterson, DMV

255 BOB GREENSTREET, Trails Coordinator, Oregon Off-Highway Vehicle Association: Testifies in support of HB 2756.

> the bill corrects the omission discussed in HB 2759 of the underage motorcycle driver and makes it compatible with the under age snowmobile and

ATV drivers.

> would also allow motorcycles, primarily the older dirt bikes, to get stickers to operate off-highway

> also have dual sport motorcycles but if they are licensed for the street,

they cannot have an off-highway permit to operate on the trails; this would

change the requirement to a permit similar to dune buggies, jeeps, and four-wheel drive pickups

> would help create funds to pay for the use on the trails

> -1 amendments are housekeeping

> -2 amendments requires a person who operates an off-highway motorcycle either have a driver license or be 12 years of age and older and have a Class III operating permit

> in the -2 amendments, Section 2 (1) (c) seems to make it illegal for anyone to operate a Class III ATV under the age of 12; it appears to delete

the under 12-year old from operating a Class III ATV. The requirement is not on the Class I ATV or snowmobile

> in the -2 amendments, in line 11, suggest "12 years of age or older and be" be deleted and make it the same requirement as the Class I which is that the person must be accompanied by a person who is 18 years of age who has a driver license or a Class III operating permit

324 REP. ROBERTS: What is the age of the youngest person you have seen operate these vehicles?

MR. GREENSTREET: From my experience, the child who can operate a vehicle on his own is going to be a minimum of six to seven years old. I would recommend making it as close to the Class I requirements as possible. I think maybe five to 10 percent of 12 year olds will be able to pass the test. Perhaps half of the 13 year olds and all of the 14 year olds should be able to pass the written and the thought process of the test, not necessarily the hand-eye coordination.

395 REP. GRISHAM: Section 2 talks about under 12. I am not saying I would pick 12 as the age that would have the ability to operate the bike. I would like for us to say there is an age that we could agree on that under any circumstances a child should not be in control of a motor vehicle that has a gas-throttle relationship. That may be less than 12, but it is a lot higher than two.

400 JOANNE PETERSON: Explains the impact of the bill on DMV (EXHIBIT F).  
TAPE 23, B

001 MS. TWEEDT: The -2 amendments say that those under the age of 12 need a permit and an escort, but those 12 and over could ride with a permit or an escort. It sets up the violation for the parent.

023 CHAIR HAYDEN: Closes the public hearing and opens the work session on HB 2756.

HB 2756 - WORK SESSION

REP. ROBERTS: Do the amendments restrict those under 12 from riding?

044 MS. PETERSON: That would be my reading of it.

046 MR. GREENSTREET: If we look to ORS 821.170 on Class I ATVs, it is the same wording if we delete "12 years of age or older and be". He will be treated the same whether he is on a machine with 2-, 3- or 4-wheels. It would make it clear to law enforcement and the parent.

080 MS. TWEEDT: Reviews the -1 amendments.

084 MS. TWEEDT: Reviews the -2 amendments.

096 REP. GRISHAM: I will not vote for the bill unless there is some age threshold.

Discussion continues among members on whether there should be a minimum age for children to obtain a permit.

174 MOTION: REP. ROBERTS moves that the HB 2756-1 amendments BE

ADOPTED.

179 VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the motion PASSED.

180 CHAIR HAYDEN: Counsel, what changes need to be made to the -2 amendments?

190 MS. TWEEDT: It would be beneficial to hear the members discuss on what they ultimately want to see come out, instead of referring to the -2 amendments.

201 MR. GREENSTREET: The main concern of the users is that the family group still be able to recreate together. With the -2 amendments it appears if they are under 12 years old they have to stay in camp.

216 MS. TWEEDT: If the -2 amendments were to read that the person must be blank years of age.

220 REP. GRISHAM: On page 2 of the -2 amendments, in line 4, I read that to say if there is someone under 12 and they are riding with the parent...and it goes on to say if they are on a separate all terrain vehicle unaccompanied. My concern is if the young person riding the vehicle has the ability to throttle and brake and fails to do that, there will be a hurt or killed kid. That is wrong.

224 MR. GREENSTREET: The rider's ability to operate the machine is the deciding factor in when he gets to ride with us. I have seen five year olds who are much better than 10 year olds just because of their coordination and thought.

272 MOTION: REP. STROBECK moves that the -2 amendments be amended on 1, in line 11, delete "12 years of age or older and be" and in line 22, after "age" insert "and at least seven years of age".

page

301 MS. TWEEDT: I would recommend the committee add a subsection (d) that would say under 12 years old and has a permit and is accompanied...to clarify that they can operate, but Section 2 (a) is the penalty for failure to abide by the regulation of the bill.

311 CHAIR HAYDEN: Would the effect of your amendment be to exclude children

under seven from riding?

311 REP. STROBECK: Yes, it would. They could not operate alone.

315 MS. TWEEDT: Could the child be on a vehicle with someone?

320 REP. STROBECK: My intent is not to prohibit that. I would like to allow that to continue with children younger than seven.

333 MS. TWEEDT : Reviews the proposed amendment as suggested by the committee:

> clarify the first section of the -2 amendment, Section 2, to delete line 11, the words "12 years of age or older and be" so it will read that a person must be accompanied by a person who is at least 18 years of age

> include a subsection (d) to clarify that those 12 to 7 and have a permit and are accompanied may operate the vehicle; also to clarify that Section 2a is not the authorizing statute but the penalty statute, and to clarify in line 22, after "and" insert "at least seven years old to operate"

> on page 2, lines 4 and 5, delete, "or on a separate Class III all-terrain

vehicle"

355 > clarify that a person can carry a five-year old on the vehicle

357 CHAIR HAYDEN: Would you want children under seven to be able to operate a vehicle independently with some supervision?

360 MR. GREENSTREET: There is a certain amount of training that is done before you start driving a car and you have a learner's permit. If we can get a recommendation of a do pass with the seven year old in, I don't have a problem with it.

371 MOTION: REP. STROBECK moves that the -2 amendments as outlined by MS. Tweedt BE ADOPTED.

VOTE: CHAIR HAYDEN, hearing no objections to the motion, declares the motion PASSED. All members are present.

381 MOTION: REP. STROBECK moves that HB 2756, as amended, be sent to the Full Committee with a DO PASS RECOMMENDATION.

392 VOTE: In a roll call vote, all members are present and vote AYE.

398 CHAIR HAYDEN: Declares the motion PASSED. REP. TARO will carry the bill.

403 CHAIR HAYDEN: Declares the meeting in recess from 3:15 to 3:30 p.m.

TAPE 24, A

001 CHAIR HAYDEN: Opens the public hearing on HB 3422.

HB 3422 - PUBLIC HEARING

Witnesses: Butch Harbaugh, BikePAC of Oregon  
Brian Stovall, BikePAC of Oregon  
Ed Marges, ODOT  
Sgt. Richard Kuehmichel, Oregon State Police  
Kelly Taylor, DMV

The Preliminary Staff Measure Summary and the HB 3422-2 amendments are hereby made a part of these minutes (EXHIBIT G).

006 BUTCH HARBAUGH, Legislative Director, BikePAC of Oregon: Testifies in support of HB 3422.

> problem of identifying what is and what is not a legal helmet is a growing problem in Oregon

021 BRIAN STOVALL, Executive Director, BikePAC of Oregon: Testifies in support of HB 3422.

> an issue in identify helmets for sale or enforcement is the standard that

was written and developed as a laboratory standard for testing and was never intended to be used for enforcement or anything other than laboratory

testing

> it is a federal standards

> police and courts have been trying to use the laboratory standard to decide what is a legal helmet.

> something is needed that translates the laboratory standard into something useable information for all involved.

040 REP. STROBECK: Are you saying if you buy a helmet in a store in Oregon,

it is an ODOT approved

MR. HARBAUGH: We are finding just about every jurisdiction has their own definition of what is or is not a legal helmet. Many people here today have experienced being pulled over and told their helmets were illegal and confrontations are happening more and more.

058 ED MARGES, ODOT: Submits a prepared statement and testifies in opposition to HB 3422 (EXHIBIT H).

> the HB 3422-2 amendments are attempting to define what a helmet is; the need for the definition no longer exists if we use the list of approved helmets



107 SGT. RICHARD KUEHMICHEL, Oregon State Police: Offers to answer questions.

116 REP. ROBERTS: Questions how an officer can tell a helmet is not legal if the officer is approaching head-on and the sticker is on the back of the helmet.  
> believes harassment by police is going on

126 SGT. KUEHMICHEL: I am not familiar with the incident.

147 REP. ROBERTS: Comments if a store is licensed to sell a helmet, the helmet should be legal.

154 MR. MARGES: If we can get the list ( it is a list of 170 helmets and is not totally inclusive) to the police, those who sell the helmets and those who buy helmets, it should solve the problem.

168 REP. ROBERTS: I want to make sure we are agreeing the list is legal, whether it is federal or state.

170 CHAIR HAYDEN: The bill would mandate that retailers would only sell helmets on the list.

195 REP. ROBERTS: (Referring to page 2, line 4) there is a blank on what the fine should be. My concern is we have a description and standards for the helmets. If the helmet is bought at a legitimate retail store, it should be legal.

205 MR. MARGES: It is a federal list. It is a federal standard and by law the state cannot approve helmets.

212 CHAIR HAYDEN: Closes the public hearing and opens the work session on HB 3422.

215 MS. TWEEDT: Reminds the members there is a blank on page 2 of the bill for the traffic infraction for the sale of unapproved headgear.

239 MOTION: REP. ROBERTS moves that the HB 3422-2 amendments BE ADOPTED.

motion VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the PASSED. REPS. GRISHAM AND MARKHAM ARE EXCUSED.

256 MOTION: REP. ROBERTS moves that on page 2 of HB 3422, in the blank in line 4, insert "D".

276 VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the motion PASSED. REPS. GRISHAM AND MARKHAM ARE EXCUSED.

277 MOTION: REP. ROBERTS moves that HB 3422, as amended, be sent to the Full Committee with a DO PASS RECOMMENDATION.

280 MS. TWEEDT: Advises the committee if they are interested in clarifying that the list should be made available to retailers, they should insert language on how to get the list to the retailers.

286 REP. ROBERTS: Withdraws his motion.

298 MS. TWEEDT: Explains that Section 1 of the bill requires ODOT to establish standards. That is what the committee is trying to get rid of. The federal Department of Transportation has developed those standards and has a list of approved helmets.

296 KELLY TAYLOR, DMV Branch, Oregon Department of Transportation: It is my understanding from another bill on another subject that in order for somebody to be cited for a traffic infraction the officer has to witness the offense. Unless an officer is standing in the store witnessing a business selling a helmet that isn't to standard, they would not be able to cite them. Sgt. Kuehmichel agrees with that.

321 CHAIR HAYDEN: What reprimand could we use on a retailer?

324 MS. TAYLOR: I would have to go to counsel for advice.

333 MS. TWEEDT: The retailer would be in violation. The committee would need to specify what violation it would be.

335 CHAIR HAYDEN: What if we just said the lowest possible violation?

338 REP. ROBERTS: That sounds good.

340 MOTION: CHAIR HAYDEN moves that the penalty for a violation by a retailer be the lowest possible in the schedule of violations.

motion VOTE: CHAIR HAYDEN, hearing no objection to the motion, declares the PASSED. REPS. GRISHAM AND MARKHAM ARE EXCUSED.

342 MOTION: REP. ROBERTS moves that HB 3422, as amended, be sent to the Full Committee with a DO PASS RECOMMENDATION.

349 REP. STROBECK: Questions whether the committee should say that the Department of Transportation shall promulgate rules or notify..or something to that effect.

355 CHAIR HAYDEN: I would think a bulk mailing of the list to the retailers would satisfy this.

357 REP. STROBECK: It is not specified that they need to give notice.

363 CHAIR HAYDEN: I wouldn't think (ODOT) would need legislative help.

367 VOTE: In a roll call vote, all members present vote AYE. REPS. GRISHAM AND MARKHAM ARE EXCUSED.

372 CHAIR HAYDEN: Declares the motion PASSED. REP. ROBERTS will lead discussion in Full Committee.

374 CHAIR HAYDEN: Closes the work session on HB 3422 and opens the public hearing on HB 3419.

HB 3419 - PUBLIC HEARING

Witnesses: Butch Harbaugh, BikePAC of Oregon  
Spencer Neil, himself  
Cliff Tennant, himself  
Daryle Orphilla, himself  
Jud Witcher, himself  
Kenny Z  
Brian Stovall, BikePAC of Oregon  
Teresa Hepker, herself

384 MS. TWEEDT: Reviews the Preliminary Staff Measure Summary and the -1 amendments (EXHIBIT I ).

TAPE 25, A

015 BUTCH HARBAUGH, Legislative Director, Bike PAC of Oregon, submits and reads a prepared statement in support of HB 3419 (EXHIBIT J).

058 SPENCER NEIL, an attorney representing clients in civil rights violations:

> has represented numerous clients because they have been stopped by policy

for the alleged "illegal" helmets

> asserts that two poise officers will disagree whether a helmet is legal

> there is arbitrary enforcement of the law

> police think everyone who wears black leathers and rides a Harley is a

criminal; they act on that and use the helmet as a pretext to stop people

> riders are subject to unlawful searches of their person and effects

> riders frequently suffer from confiscation of their helmet, but there is no legal authority for the confiscation

105 CLIFF TENNANT: Submits a prepared statement and testifies in support of

HB 3419 (EXHIBIT K). Shares events of police stops in Salem and advises that education for people would better than restricting what they do.

170 DARYLE ORPHILLA: Submits and reads a prepared statement in support of HB 3419 (EXHIBIT L).

239 JUD WHITCHER: Submits and reads a prepared statement in support of HB 3419 (EXHIBIT M).

303 KENNY Z: Submits and reads a prepared statement in support of HB 3419 (EXHIBIT N).

352 BRIAN STOVALL: Submits a prepared statement and testifies in support of HB 3419 (EXHIBIT O).

TAPE 24, B

015 TERESA HEPKER: Submits a prepared statement and helmet law statistics, and shows overheads of charts on statistics (EXHIBIT P).

060 MS. HEPKER: Continues her presentation.

104 REP. STROBECK: Do you feel the repeal of the helmet law would change the attitude you perceive some law enforcement people have toward you because you are riding motorcycles?

112 MR. STOVALL: I am not sure it would change their attitude immediately.

Changing the law would stop them from having the device with which to harass us.

147 REP. STROBECK: Most of the testimony has been not about the use of helmets, but about harassment or disrespect which is a different issue.

MR. STOVALL: We have had an issue with the helmet law itself for many years. The harassment issue is not one we chose; it is because it is happening to us.

157 MS. HEPKER: I feel if we continue to be subject to a mandatory helmet use law, the approach of telling the dealers what to sell is not going to cut it. We need some way to tell what is a good helmet that cannot be argued with. The list is not complete and there will be room to argue.

171 CHAIR HAYDEN: Temporarily closes the public hearing on HB 3419 and opens the public hearing on HB 3421.

177 HB 3421 - PUBLIC HEARING

Witness: James Barkley, himself

The Preliminary Staff Measure Summary is hereby made a part of these minutes (EXHIBIT U)

168 JAMES BARKLEY: Testifies in support of HB 3421.  
> has been totally disabled since the 1970's  
> there are no handicapped provisions in the helmet law  
> motorcycle is therapy and exercise machine

200 REP. STROBECK: Are you unable to wear a helmet.

MR. BARLEY: Responds affirmatively and explains his various disabilities

257 CHAIR HAYDEN: Closes the public hearing on HB 3421 and reopens the public hearing on 3419.

HB 3419 - PUBLIC HEARING

Witnesses: Sam HocHB erg, himself  
Mark Watts, himself  
Ken Ray, himself  
J. P. McNutt, himself  
Doug Hardesty, himself

The Preliminary Staff Measure Summary is hereby made a part of these minutes (EXHIBIT U).

A prepared statement submitted by Ed Marges, Oregon Department of Transportation, 6 in opposition to HB 3421 is hereby made a part of these minutes (EXHIBIT V).

SAM HOCHB ERG, attorney: Testifies in support of HB 3419.  
> office has more open files for motorcycle injury cases than any other lawyer in the state  
> has represented cyclist who have been ticketed for wearing illegal helmet  
> adults don't like the helmet law and don't want it; they want to be able to choose their own safety equipment  
> problems with helmets include interference with vision, wind lift, bugs getting caught, fatigue, heat, and oxygen deprivation with full face helmets  
> money could be better spent by police chasing criminals  
> helmet law has been used as pretense to stop cyclists for other offenses  
> Washington Court of Appeals struck down the helmet law because it was based on Federal Motor Vehicles Standard 218 because of unconstitutional vagueness; it is now in front of Washington Supreme Court  
> Oregon helmet law has not demonstrated a reduction in death or injuries; fatalities have gone up after the helmet law  
> education works

403 MARK WATTS: Submits and reads a prepared statement in support of HB 3419 (EXHIBIT Q).

TAPE 25, B

030 KEN RAY: States he will forego his testimony.

J. P. MCNUTT: Testifies in support of HB 3419.  
> has ridden with and without helmets  
> there isn't strong evidence that a helmet substantially reduces injuries  
> had helmet confiscated at Florence last year and he and his wife were left along side of road with no place to go  
> went to court three different times and was able to beat the ticket  
> was told by police officer that the federal government paid the overtime for all the people at the Florence Rhododendron Festival because they wrote helmet and seat belt tickets  
> it ought to be a personal choice; education is the answer

054 DOUG HARDESTY, Portland: Testifies in support of HB 3419.  
> most beneficial education has be participating in the advanced rider course through Team Oregon; it makes one be a defensive rider and be more aware of emergency situations and broadens one's scope that if one is going to be safe on a motorcycle, it is the person's own responsibility to be safe  
> problems encountered on motorcycles are drivers who don't look for motorcycles; drivers look for a car and two headlights  
> it is a freedom of choice issue; my safety is not your concern

088 REP. STROBECK: The committee has a letter from Dr. Long, Chief of Trauma at Immanuel Hospital (EXHIBIT R). Dr. Long says he would support this if motorcyclists over the age of 18 were required to sign a contract to be an organ donor if their brain injuries caused death or if unhelmeted motorcyclists would carry personal injury protection insurance of \$1 million to pay for their care and rehabilitation if they receive a head

injury from riding a motorcycle. What do you think of that?

096 MR. HARDESTY: I don't have a problem with that, but any person who does

not practice good health practices, if you are not in good condition, if you don't eat correctly, if you have high blood pressure or good lifestyle fitness habits, you are probably more of a burden on society than anybody in this room. I am an organ donor. It is not motorcyclists causing accidents. Thirty percent of the time it is the cyclists who are the cause

or have some responsibility. Seventy percent of the time they are getting hit by a car.

123 MR. WATTS: Comments everyone is required to have insurance if we have a

motor vehicle. Not everybody does that. It is a good way for him to support the donor program and get some people to do that, but I think there

isn't a lot of proof that says we are a social burden.

A prepared statement submitted by Sgt. Richard Kuehmichel, Oregon State Police, is hereby made a part of these minutes (EXHIBIT W).

A prepared statement submitted by Ed Marges, Oregon Department of Transportation, is hereby made a part of these minutes (EXHIBIT X).

128 CHAIR HAYDEN: Commends the witnesses for their presentations and decorum and declares the meeting adjourned at 4:57 p.m.

Submitted by, Reviewed by,

Annetta Mullins Anne Tweedt  
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - HB 2134, HB 2134-2 amendments, Mike Meredith, 3 pp  
B - HB 2874, Preliminary Staff Measure Summary, HB 3874-2 amendments and Legislative Fiscal Analysis, Staff, 3 pp  
C - HB 2722, Preliminary Staff Measure Summary, 1 p  
D - HB 2759, Preliminary Staff Measure Summary, HB 2759-1 and HB 2759-2 amendments, staff, 4 pp  
E - HB 2756, Preliminary Staff Measure Summary, HB 2756-1 and HB 2756-2 amendments, staff, 4 ppHB 27  
F - HB 2756, prepared statement, Joanne Peterson, 2 pp  
G - HB 3422, Preliminary Staff Measure Summary and HB 3422-2 amendments, staff, 4 pp  
H - HB 3422, prepared statement, Ed Marges, 1 p  
I - HB 3419, Preliminary Staff Measure Summary and HB 3419-1 amendments, staff, 2 pp  
J - HB 3419, prepared statement, Butch Harbaugh, 8 pp  
K - HB 3419, prepared statement, Cliff Tennant, 1 p  
L - HB 3419, prepared statement, Daryle Orpilla, 5 pp  
M - HB 3419, prepared statement, Jud Whitcher, 4 pp  
N - HB 3419, prepared statement, Kenny Z, 2 pp  
O - HB 3419, prepared statement, Brian Stovall, 4 pp  
P - HB 3419, prepared statement, Teresa Hepker, 10 pp  
Q - HB 3419, prepared statement, Mark Watts, 2 pp  
R - HB 3419, prepared statement, William B. Long, M.D., 1 p  
S - HB 3419, prepared statement, Cherie Pearlszig, 1 p  
T - HB 3419, prepared statement, Robert J. Pearlszig, 1 p  
U - HB 3421, Preliminary Staff Measure Summary, staff, 1 p  
V - HB 3421, prepared statement, Ed Marges, 1 p  
W - HB 3419, prepared statement, Richard Kuehmichel, 2 pp  
X - HB 3419, prepared statement, Ed Marges, 3 pp