

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes 73, 74, & 75

MEMBERS PRESENT:

Sen. Bill Kennemer, Chair
Sen. John Lim, Vice-Chair
Sen. Gene Derfler

MEMBERS EXCUSED:

MEMBERS ABSENT: Sen. Joan Dukes
 Sen. William McCoy

STAFF PRESENT:

Darrell W. Fuller, Committee Administrator
Carol A. Smith, Committee Assistant

MEASURES HEARD:

SB 1076 Public Hearing
SB 81 Public Hearing
SB 994 Public Hearing
SB 940 Work Session
HB 2654 Work Session
SCR 9 Public Hearing and Work session
SB 623 Work Session
SB 550 Work Session
SB 579 Work Session
SB 969 Public Hearing
SB 970 Public Hearing
SB 774 Public Hearing
SB 505 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 73, A

005 CHAIR: Calls the meeting to order as a subcommittee at 3:12 p.m. SB
559 is moved to next Thursday.

010 CHAIR: Opens PUBLIC HEARING on SB 1076.

DARRELL FULLER, Committee Administrator: Gives overview of the bill.

006 WITNESSES: Julie Evey, Department of Motor Vehicles
 Eugene Ebersol, Department of Justice

009 JULIE EVEY, Department of Motor Vehicles: Submits written testimony in
opposition to the bill (EXHIBIT A).
Feels the Department of Motor Vehicles will see an increase in complaints
and compliance by extending the time
allowance.

015 SEN. DERFLER: Asks for clarification. Do you want to keep at the
present time frame?

020 CHAIR: Announces we are now in full committee. (3:15 SEN. LIM joins
meeting.)

022 EUGENE EBERSOL, Department of Justice: Testimony in opposition to the
bill. The bill is a step backward. Gives
history of the ten-day rule. The ten-day rule is supported by the
Independent Auto Dealers. Explains why the 30-day
rule is a problem for the Department of Justice and the Department of Motor
Vehicles. Refers to:
--consigning dealer interest;
--enforcement;
--lag period;

--consumer not getting money;
--title problem;
--encumbered vehicle;
--consumer versus the bank;
--three-fold window of time;
--litigation;
--Legislative Counsel;
--the bill relative to the author's intention.

064 CHAIR: Closes PUBLIC HEARING on SB 1076.
068 CHAIR: Opens WORK SESSION on SB 940.

WITNESSES: Stephen Schneider, Financial Fraud, Department of Justice
Patricia O'Sullivan, Department of Consumer and Business
Services

069 STEPHEN SCHNEIDER, Department of Justice: Submits written testimony in support of SB 940 (EXHIBIT O). Mentions written testimony submitted last meeting. It preserves protection offered to consumers. The Department continues to receive complaints from victims of scams or travel related failures. Bill will serve as a deterrent. This bill will not impede business activities in the tour and travel related industry. The Department took random survey of three surety companies. It was their determination that the premiums and underwriting requirements were not overly burdensome. The Department believes UTPA -2 amendments would be duplicitious.

096 CHAIR: Were the complaints involving Oregon businesses?

098 SCHNEIDER: Refers to a printout that gives figures from 1991 to 1995, tracking complaints. In discount travel packages there were 793 complaints; in general travel and tourism, inclusive of travel agents, there were 299 complaints. A large portion of these were directed at Oregon businesses.

108 SEN. DERFLER: Asks questions regarding the -4, -5 and -6 amendments.

113 SCHNEIDER: Responds just picked up the amendments.

128 SEN. LIM: What kind of complaints were received?

130 SCHNEIDER, responds to SEN. LIM there were problems concerning:
--deposits;
--delivery of packets;
--delivery of services;
--direct financial loss to the consumer.

127 SEN. DERFLER: Were you able to resolve most of the complaints?

138 SCHNEIDER: Yes, but a lot of them have not been. Mentions businesses that have gone under and businesses from out-of-state. Sometimes it is impossible to get the monies out.

144 SEN. DERFLER: Most of them were required to have bonds.

145 SCHNEIDER: My understanding is that it does not allow any compensation to the consumer.

155 SEN. LIM: Question regarding the \$100,00 bond.

161 SCHNEIDER, refers to:
--the surety bond, and premium;
--underwriting characteristics;
--the department's intent on SB 940 versus bond requirements.

178 PATRICIA O'SULLIVAN, Department of Consumer and Business Services: Addresses the -3, -4, -5, and -6 amendments and explains which ones to drop. Addresses voluntary registration requirement and advertising; non-profit exemption, and school groups. States they support the original bill with the -4, -5, and -6 amendments.

257 MOTION: SEN. DERFLER moves to ADOPT the -4, -5, and -6 amendments with technical CONCEPTUAL CHANGES.

VOTE: CHAIR: Hearing no objection, the MOTION CARRIES.

MOTION: SEN. DERFLER moves SB 940, AS AMENDED, to the Floor with a DO PASS recommendation.

VOTE: MOTION CARRIES.
AYES: DERFLER, LIM and KENNEMER
ABSENT: DUKES AND MCCOY
CARRIER: KENNEMER

290 CHAIR: Closes WORK SESSION on SB 940.
CHAIR: Opens PUBLIC HEARING on 994.

308 CHAIR: Advises he is working on a telecommunications bill and SB 994 will be used and substantially amended, and will not be moved forward.

CHAIR: Closes PUBLIC HEARING on SB 994.
292 CHAIR: Opens WORK SESSION on SB 2654.

315 CHAIR: Announces this bill has been inappropriately referred to our committee. It is a banking bill but it is technical and basically deals with legal issues and needs to be reviewed in Judiciary.

MOTION: SEN. DERFLER, moves HB 2654 to the Floor WITHOUT RECOMMENDATION AS TO PASSAGE and REFER to JUDICIARY.

VOTE: CHAIR: Hearing no objection, MOTION CARRIES.
ABSENT: DUKES and MCCOY

293 CHAIR: Closes WORK SESSION on SB 2654.
294 CHAIR: Opens PUBLIC HEARING on SCR 9.

WITNESSES: John Mangis, Department of Veterans Affairs

312 JOHN MANGIS, Department of Veterans Affairs: Submits written testimony in support of the bill (EXHIBIT B).Explains the bill relevant to World War 11. No provisions are made for post-Vietnam veterans. A resolution does not do a lot. This would give me one more tool. Lists groups who are in support of the bill. There is no knowledge of the opposition to the bill. It is an expression of the feelings of legislature and veterans.

368 SEN. LIM: Asks which are the five states?

394 MANGIS: Responds Alaska, Oregon, California, Wisconsin and Texas are the only states that are authorized to issue what they call qualified veteran mortgage bonds.

CHAIR: Closes PUBLIC HEARING on SCR 9.
CHAIR: Opens WORK SESSION on SCR 9.

MOTION: SEN. LIM moves SCR 9 to the Floor with an ADOPTION recommendation.

VOTE: MOTION PASSES
AYES: DERFLER, LIM and KENNEMER
ABSENT: DUKES and MCCOY
CARRIER: LIM

390 CHAIR: Closes WORK SESSION on SCR 9. :

TAPE 74, SIDE A

010 CHAIR: Opens WORK SESSION on SB 623.

012 DARRELL FULLER, Committee Administrator: Gives overview and refers to amendments.

WITNESSES: Wanda Wahus, Oregon Independent Auto Dealers Association
Julie Evey, Department of Consumer and Business Services
Ron Terry, Oregon Independent Auto Dealers Association.

020 WANDA WAHUS, Oregon Independent Auto Dealers Association: Testimony in support of SB 623. Explains the amendments to the bill.

040 JULIE EVEY, Department of Consumer and Business Services: Gives number of licensed dealers in Oregon. Explains they can only display four cars. Many do not have licenses.

067 WAHUS: Elaborates on number of vehicles that can be displayed and selling without a license.

073 SEN. LIM: Question regarding people who would refurbish a car and sell it.

074 EVEY: That is an exception; they can do two without a license.

075 CHAIR: Asks RON TERRY to respond.

080 RON TERRY, Oregon Independent Auto Dealers Association: Says there are no exceptions there, relative to a wrecker. If you buy the car for profit; to refurbish for profit, you

cannot do that.

100 CHAIR: Asks them to work together.

110 CHAIR: Closes WORK SESSION on SB 623.

114 CHAIR: Announces a five-minute recess, explains situation involving Senate Floor and committee meeting attendance conflict. (States that SENATORS DUKES and MCCOY should be listed as absent, not excused.)

160 CHAIR: Opens PUBLIC HEARING on SB 81.

WITNESSES: Jim Carlson, Oregon Health Care Association
Margaret Carlie, Oregon Health Care Association

169 JIM CARLSON, Oregon Health Care Association: Testimony regarding care facilities. Gives explanation of amendments.

MARGARET CARLIE, Oregon Health Care Association: Refers to nursing care regulations; gives statistics and details. Addresses:
--Attorney General and survey reports;
--Unfair Trade Practices;
--compliance agreements;
--facility monitoring; receivership;
--residents right statement; unseasonable clothing;
--civil penalties;
--suspension of payment;
--Attorney General office going after for care issues; misuse of consumer advocacy issues.
--Attorney General and unfair trade practices;
--lawsuit with the state of Oregon.
299 --average number of misstatements is six; any one is a misrepresentation;
--\$100,000 fine;
--amendments;
--outline of what Attorney General has in store.

303 CHAIR: We will schedule work session at a later time on SB 81.

304 CHAIR: Closes PUBLIC HEARING on SB 81.

300 CHAIR: Opens WORK SESSION on SB 550.

DARRELL FULLER, Committee Administrator: Gives history of bill and amendments; the -5 are from SADLER; -4 are from Legislative Counsel.

334 WITNESSES: Dick Sadler
Chris Lyons, Oregon Liquor Control Commission
Mike Reed, Oregon Liquor Control Commission

RICHARD SADLER: Submits written testimony in support of SB 550 (EXHIBIT H). Refers to his amendments, cites changes that would like to have made. Refers to percent by volume and by weight. Both standards would help.

385 CHRIS, LYONS, Oregon Liquor Control Commission: Submits written testimony in support of the bill (EXHIBIT G). Asked for -4 amendments. Explains what they do.

TAPE 73, SIDE B

036 LYONS: Continues, explanation of -4 and -5 amendments. Reference to grocery stores marketing chocolates. They don't have a philosophical problem.

050 CHAIR: Questions regarding the label; food and alcohol.

056 LYONS: Quotes how Line 12 should read.

065 SADLER: Response to CHAIR hoping to not have this narrowly defined; addressing a policy viewpoint.

080 MIKE REED, Oregon Liquor Control Commission: Refers to a conversion table. A solid component added to this gets into volume versus weight. You need a chemist to address the results.

090 SEN. LIM: Question of how the sales problems are going to be addressed?

092 SADLER: His understanding is up to the retail establishment. Believes the label is the determining factor.

094 LYONS: OLCC Does not dictate to sellers how items containing alcohol will be displayed.

096 SEN. LIM: Further question about above. You feel comfortable with the
-5 with that.

120 LYONS: There is a risk. We would discipline a licensee just as if they
sold a bottle of beer. They would get a ticket for
selling to a minor.

149 MOTION: SEN. LIM moves to ADOPT the SB 550-5 amendments as
amended.

VOTE: CHAIR: Hearing no objection, the SB 550-5 amendments
are ADOPTED.

MOTION: SEN. LIM moves SB 550, AS AMENDED, to the Floor with
a DO PASS recommendation.

VOTE: MOTION CARRIES.
AYES: DERFLER, LIM and KENNEMER
ABSENT: DUKES and MCCOY
CARRIER: KENNEMER

150 CHAIR: Closes WORK SESSION on SB 550.

152 CHAIR: Opens PUBLIC HEARING on SB 579.

DARRELL FULLER, Committee Administrator: We have substantial -1
amendments; there may be a
constitutional problem, regarding relating clause on the bill.

WITNESSES: Peggy Collins, Building Codes Division

154 PEGGY COLLINS, Building Codes Division: Submits written testimony in
support of the bill (EXHIBIT F).
Explains the amendments and her request for changes. States the bill is in
good shape. Had not heard of the word
from Legislative Counsel.

CHAIR: Comments regarding Legislative Counsel. Let's discuss this with
the President and hold this over.

200 CHAIR: Closes PUBLIC HEARING on SB 579.

215 CHAIR: SEN. DERFLER has to leave. We are minus two members today. We
will have simultaneous hearing on SB
774, 969 and 970 for the purpose of hearing from Paul Gustafson. Then hear
SB 505. Under the circumstances
today we would not have an adequate vote. Anticipate SB 505 will pass out
next week, favorably. (States we are in
subcommittee.)

225 CHAIR: Opens PUBLIC HEARING on SB 774, 969 and 970.

WITNESSES: Paul Gustafson, Autosave, Autosafe

228 PAUL GUSTAFSON, Autosave, Autosafe: Testimony in support of the bills.
Has been in auto business in
Portland for 30 years. Gives further qualifications for judging an auto
and its resale value in the independent appraisal
business. Gives an example of what the process entails, mentioning:

--totaled car;
276 --appraisal firms;
--adjuster value on a vehicle;
--Time frame, settlement offer;
303 --lowballing, 10 to 35 percent below market value; today maybe 50 per
cent;
--collision coverage;
330 --State Farm appraisal clause;
--competent appraiser; disinterested appraiser; third appraiser;
--defrauding the insured;
399 --tying up the presiding judge;
--time frame for his example.

TAPE 74, SIDE B

030 GUSTAFSON, continues:
--compliance,
--insured need a legal mind looking at the problem versus an insurance
oriented mind.
--civil and criminal problems;
--Attorney General has said is going after automobile fraud.

035 GUSTAFSON: Voices concerns regarding fraud in the insurance industry.
Gives an example of a personal
experience with a client similar to STARK. Wrote briefs for the presiding
judge. The presiding judge turned it and the
opposing sides briefs over to a retired supreme court judge. He had
decided for the other side. Wouldn't talk to him

about it. Subsequently heard that the retired supreme court judge is the defense counsel for the insurance company.

070 GUSTAFSON: Gives another personal experience regarding a message left on his answering machine. From that time on, for a year and a half had every one of his clients send complaints. Out of 2,000 complaints 60-70 percent were not dealt with.

079 CHAIR: Comments moving the Consumer Advocacy position over to the AG's office is complicated. There is a need for better enforcement.

086 GUSTAFSON: Comments regarding need for certification of appraisers.

090 CHAIR: Is there any licensing or bonding of these individuals? I can go out and appraise vehicles? How many appraisers are there in the state?

098 GUSTAFSON: There is no licensing or bonding. Looking in the yellow pages there are maybe 15 companies in Portland that do this, I am only one not involved with an insurance company.

130 CHAIR: Closes PUBLIC HEARING on SB 774, 969 and 970.
CHAIR: Opens PUBLIC HEARING on SB 505.

145 CHAIR: Advises we are now in subcommittee and can do work session on Thursday.

WITNESSES:

Fred Shapiro
Bruce Strase
Laurie Dukart
Trudy Bridgers
Paul Kidwell
David Steinke
Carol Dody
Charlotte Udziela

149 FRED SHAPIRO: Testimony in support of SB 505. Started program for state hospital treatment for sexual offenders. Gives standards for counselors in the state. Addresses:

150 --freedom to choose qualified professionals;
--free market forces interfered with because not covered;
--restraint to small business;
--practitioner ability to provide service to rural areas;
--restrictions;
--absence of financial impact to the state;
--refers to packet in his testimony;
--mandate;
--market share.

188 SEN. LIM: Ask SHAPIRO to explain his statement that there will be no expense increase to the state.

194 SHAPIRO: It is already mandated that this service be provided. It would not be a new fiscal responsibility to the state.

SEN. LIM: Will it increase premiums?

200 SHAPIRO: Very little in Massachusetts.

214 CHAIR: Addresses reimbursement. Closes nearly all of loop in licensing practitioners.

234 CHAIR: Any written testimony submitted will become part of the record; so not everyone necessarily need testify, written documents will become part of the record.

240 BRUCE STRASE: Testimony in support of the bill. Refers to:
--options for vendorship;
--rural areas;
--uniformity;
--inconsistencies;
--good will;
--small business;
--diversity among the professions;
--perspective and strength to the profession.

301 SEN. LIM: Question regarding the statistic that 20 percent of the United States' population suffering from mental disorders. Will fees and insurance premiums will go up?

318 STRASE: These are at the lower end of the scale.

324 LORRIE DUKART: Testimony in support of the bill. Blue Cross study

disputes that the bill will cause costs to rise.
This just adds options for counseling.

350 SEN. LIM: Do we have health care insurers represented here?

TAPE 75, SIDE A

010 DUKART: Continues, we are asking you to include mental health and include these providers. Fifteen states have already provided these in their states. More and more of them have them in their states. Refers to 1989 when licensure was given parity with other health care professionals.

020 STRASE: Cites that when mental health is taken care of other illness are minimized.

043 TRUDY BRIDGERS: Testimony in support of the bill. Refers to:
--mandates;
--promoting wellness in community;
--catch 22;
--integration of services;
--down sizing of government;
--access to services;
--broader human services;
--state cut back;
--broadening spectrum of items offered to providers;
--HB 2004.

070 PAUL KIDWELL: Testimony in support of SB 505. Refers to:
--free enterprise market;
--competition;
--reduction of costs;

102 DAVE STEINKE: Testimony in support of SB 505 (EXHIBIT D). Refers to:
--Polk County youth programs;
--public policy;
--mental health programs delayed;
--mandates;
--expansion of providers and cost control;
--child mental health outpatient team;
--cuts in general fund money in mental health division;
--title 19 money for children;
--poor who don't qualify;
--Oregon health plan;
--throwing out all mental health services.

140 CHAIR: Ask if this would help those with insurance? Ask regarding Oregon Health Plan.

151 BRIDGERS: Gives comments regarding cost.

159 CAROL DODY: Testimony in support of SB 505. Addresses pro bono service; dedicates 10-15 per cent of practice to those who do not have means. "It becomes very difficult to be a licensed person and continue to provide services that I'd like to provide to that segment of the population who does not have insurance, if in fact I have no means to receive reimbursement from those persons who do have coverage and who can afford to pay through their insurance subscription. So I think that in itself is another justification for giving us the provision and the mandate for coverage."

182 CHAIR: We will have a work session later (Thursday). Questions why those who oppose aren't here.

CHAIR: Closes PUBLIC HEARING on SB 505.

CHAIR: Adjourns the meeting at 5:20 p.m.

Submitted by, Reviewed by,

Carol A. Smith Darrell W. Fuller
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Testimony on SB 1076, Julie Evey, Department of Transportation - 1 page
B - Testimony on SCR 9, Jon Mangis, Department of Veterans Affairs - 10 pages
C - Testimony on SB 505, Charlotte Udziela, Oregon Counseling Association - 50 pages
D - Testimony on SB 505, Ivan Frasier - 12 pages
E - Testimony on SB 505, not attributed - 1 page
F - Proposed SB 579-1 Amendments, Building Codes, Peggy Collins - 5 pages

G - Proposed SB 550-4 amendments, OLCC - 2 pages
H - Proposed SB 550-5 amendments, Richard Sadler - 2 pages
I - Proposed SB 940-2 amendments, Sen. Kennemer - 13 pages
J - Proposed SB 940-3 amendments, Senator Kennemer - 1 page
K - Proposed SB 940-4 amendments, Senator Kennemer
L - Proposed SB 940-5 amendments, Senator Kennemer
M - Proposed SB 940-6 amendments, Sen. Kennemer
N - Testimony on SB 994 submitted after the meeting, PUC, Mike Kane - 1 page
O - Testimony on SB 940, Stephen J. Schneider, Assistant Attorney General -
1 page
P - Testimony on SB 505, submitted on behalf of Eugene Organ,
Disabilities Commission
-1 page