

SENATE COMMITTEE ON  
BUSINESS AND CONSUMER AFFAIRS  
Hearing Room B  
1/19/95 Tapes 2- 3

MEMBERS PRESENT:

Sen. Bill Kennemer, Chair  
Sen. John Lim, Vice Chair  
Sen. Gene Derfler  
Sen. Joan Dukes  
Sen. William McCoy

STAFF PRESENT:

Darrell W. Fuller, Committee Administrator  
Gretchen Haber, Committee Assistant

MEASURES HEARD:

Work Session  
Public Hearing on SB 22

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 2- Side A

005 CHAIR KENNEMER calls meeting to order at 8:41 a.m..

006 Work session opens.

010 DARRELL FULLER, ADMINISTRATOR, provided an overview of three draft proposals to be introduced as a courtesy: (EXHIBIT A)

1. Draft Proposal to Amend the Residential Landlord Tenant Act (EXHIBIT B)
2. Draft Proposal for Eviction of Unruly Guests (EXHIBIT C)
3. Draft Proposal for Requesting Police Assistance in Evicting an Unruly Guest (EXHIBIT D)

021 SEN. DERFLER: can there be counsel, or some legal authority, to clarify definition of "threatening"?

025 MOTION: SEN. DERFLER moved to provide courtesy introduction for the above three draft proposals.  
HEARING NO OBJECTIONS, MOTION CARRIES.

026 Closes work session.

028 CHAIR KENNEMER opens public hearing on SB 22.

Witnesses: Paul Romain, Oregon Beer and Wine Distributorships Association  
Gary Conkling, Blitz-Weinhard Brewery

John Powell, Miller Brewing Company  
Richard Kosesan, Coors Brewing Company

033 CHAIR KENNEMER asks ADMIN. FULLER to overview SB 22.

043 PAUL ROMAIN, Attorney, Oregon Beer and Wine Distributorships Association, speaks in favor of SB 22. Presents written testimony (EXHIBIT E) and letter from former Governor Roberts vetoing similar legislation in the last legislative session (EXHIBIT F).

058 ROMAIN: gives legislative history of the idea. Important to clarify definitions of "brand" vs. "brewery". Distributorships lose profits as a result of Oregon's bottle bill.

112 ROMAIN: Former Governor Roberts vetoed bill last session because there were two distributorships in the same area, and she did not want to cancel one distributor's contract. That duality in "territories" no longer exists.

134 ROMAIN: Oregon operates now with territories for beer and wine distribution. Noted need for territories to continue, to operate with Bottle Bill, to protect distributors' businesses.

140 ROMAIN: Miller Brewing Co. has brought in several amendments, which he is happy to explain.

157 ROMAIN: Miller's amendments calls for a window of time to notify distributors of contract termination, in the event of a buyout of the brewery.

188 ROMAIN explains some breweries prefer to offer different brands to different distributors.

203 CHAIR KENNEMER asks: breweries may want to offer one "brand" of beer to one dist. and another to another?

215 ROMAIN: yes.

227 SEN. DERFLER: given the present contractual obligations, will there need to be alterations to existing contracts?

237 ROMAIN refers to statutes in Georgia and possibilities for marketplace solutions.

259 CHAIR KENNEMER: Governor Roberts' letter claims the bill harms existing contracts. Please defend.

268 ROMAIN: there would be no impairment of contract.

282. CHAIR KENNEMER notes clause in existing contracts to share new products with new distributors.

290 ROMAIN: no, there would be no impairment.

310 SEN. DERFLER: is it possible for a distributor to carry all brands?

317 ROMAIN: there are certain legal limitations to that idea. Discussion.

358 SEN. DUKES: Why would the legislature step in, if the issue could be solved through contract negotiation?

365 ROMAIN: this would be simple amendment to 1989 law which requires a contract. Need terms defined; this is

what SB 22 would do.

390 Discussion continues.

407 SEN. DUKES: why write a new bill, rather than opt for a veto override?

415 ROMAIN: procedurally, and out of respect for the assembly, that would not be possible.

439 SEN. DUKES: have you run this by the new governor?

446 ROMAIN: yes, and there are different circumstances with Governor Kitzhaber.

456 CHAIR KENNEMER asks for clarification on terms, and then calls new speaker.

469 GARY CONKLING, Representing Blitz-Weinhard Brewery, in opposition to SB 22. Speaks from written testimony. (EXHIBIT G)

Tape 3- Side A

045 CONKLING notes that use of brewery name is the term which invokes consumer awareness, rather than use of the brand name.

063 CONKLING notes in response to SEN. DUKES that these matters are handled more appropriately through contract negotiation rather than legislative intervention.

075 CHAIR KENNEMER: Isn't it an issue of the inequity in company size?

079 CONKLING: notes Henry's is a local brewery, without same national strength of Miller Brewing Company, for example.

085 SEN. LIM asks about ownership of particular brands.

087 CONKLING lists ownership of brands. Discusses size of various companies.

100 CONKLING: not here to upset any of the distributorships. Discusses three-tier franchise system. Claims distributors would be appropriated unfairly.

118 CONKLING discusses contract impairment issues.

142 CONKLING reads from written testimony, and asks that it be submitted into record.

145 CHAIR KENNEMER accepts written testimony into the official record.

168 CONKLING uses new product example of "Boars Head Red" beer to demonstrate.

199 SEN. DERFLER notes investment local distributorship has made in the brewery name. Asks for comment with regards to the impact on the local distributor.

213 CONKLING notes distinction between the contribution distribution makes to the success of the company, and true equity in the company.

232 SEN. DERFLER discusses with SEN. DUKES regarding the investment made by distributors.

273 CONKLING explains marketing strategy from breweries' perspective.

297 CHAIR KENNEMER asked about "special export" marketing strategies.  
Discussion.

313 SEN. DUKES asked for definition of the term "brand."

336 CONKLING defines, referring to the bottle bill. Notes the Bottle Bill  
shouldn't relate to SB 22. Provides definition of  
"brand."

354 SEN. DUKES clarifies in terms of current contracts. Discussion.

375 CONKLING clarifies breweries' position with regards to current  
contractual obligations to distributors.

Tape 2- Side B

005 SEN. DUKES and CONKLING continue contractual discussion.

045 SEN. DUKES requests from the Chair a specific and legal definition of  
"brand."

050 SEN. MCCOY asks about other witnesses.

052 JOHN POWELL, Miller Brewing Company, speaks in support of SB 22 with  
amendments. (EXHIBIT H)

075 POWELL notes importance of strong relationship with distributors.  
Discusses amendments.

116 SEN. DUKES asked if amendment would require new products to go to  
existing distributorships.

127 POWELL clarifies.

143 CHAIR KENNEMER asks for brand name clarification.

155 POWELL discusses "families" of beers and support from Miller Brewery to  
provide whole families to  
distributorships.

175 POWELL introduces the third amendment Miller is proposing, regarding  
buyouts of breweries and the impact  
that sale has upon distributorship.

203 POWELL clarifies that it applies in the event of a merger or acquisition  
only. Notes that a decision to define the  
term "brand" would be a very significant policy decision.

217 CHAIR KENNEMER clarifies amendments. Discussion.

224 SEN. DUKES refers to page three of the amendments. Discussion.

264 Discussion on amendments continues.

274 RICHARD KOSESAN, Coors Brewing Company. Speaks in favor of SB 22 with  
proposed amendments.

296 SEN. DUKES asked about practice of "abandoning" brands.

324 SEN. DUKES asks for Coors position with regard to defining brands.  
KOSESAN responds.

338 SEN. MCCOY asks about ownership of terms such as "Light (beer)."

350 ROMAIN returns to speak. Notes possibility of agreement between distributors and Miller/Coors on proposed amendments.

374 ROMAIN: language in Miller's second amendment is already in the ORS.

402 Closes hearing on SB 22.

407 CHAIR KENNEMER notes change in committee time, and discussed possible times. Noted next meeting will be next Tuesday at either 1:00 or 3:00. Requested input as to bill priorities for the committee.

431 CHAIR KENNEMER adjourns meeting.

Submitted by,

Reviewed by,

Gretchen Haber,  
Committee Assistant

Darrell W. Fuller,  
Committee Administrator

#### EXHIBIT LOG:

A- Summary of Draft Proposals - staff - 1 page  
B- Draft Proposal One - staff - 4 pages  
C- Draft Proposal Two - staff - 1 page  
D- Draft Proposal Three - staff - 1 page  
E- Testimony on SB 22 - Paul Romain - 1 page  
F- Letter by Fmr. Gov. Roberts - Paul Romain - 1 page  
G- Testimony on SB 22 - Gary Conkling - 2 pages  
H- Proposed Amendments to SB 22 - John Powell - 2 pages

