

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes 9&10

MEMBERS PRESENT:

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

MEMBER EXCUSED:

Senator Dukes

STAFF PRESENT:

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

MEASURES HEARD:

Introduction of LC's: 2154, 1945 and 2337
SB 317 Public Hearing and Work Session
SB 12 Public Hearing and Work Session
SB 15 Public Hearing and Work Session
SB 16 Public Hearing and Work Session
SB 23 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

005 CHAIR: Calls the meeting to order at 3:00 p.m.

006 CHAIR: Opens WORK SESSION for purpose of introduction of LC's.

008 COMMITTEE ADMINISTRATOR, DARRELL FULLER, gives overview of LC's.

022 MOTION: SEN. MCCOY: Moves the ADOPTION of LC's.

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

025 CHAIR: Closes the WORK SESSION.

028 CHAIR: Opens PUBLIC HEARING on SB 317.

033 DARRELL FULLER, summarizes the bill.

040 WITNESSES: John DiLorenzo, Chemical Specialties Manufacturers Association (CSMA)
Jeff Huntington, Assistant Attorney General
Brent Burton, M.D., Oregon Poison Prevention Task Force
Pat McCormick, Aversive Agents
Bob Vettere, Chairman of CSMA
Lynn Tylczak

045 John DiLorenzo, Chemical Specialties Manufacturers Association: Submits written testimony in support of the bill

SB 317 (EXHIBIT A). Introduces witnesses: Robert Vettere, Corporate Counsel and Director of Government Affairs of First Brands Corporation, who is also the chairman of CSMA, Antifreeze Producer's Committee; Jeffrey Huntington, Assistant Attorney General; Dr. Brent Burton, Chair of the Oregon Poison Prevention Task Force and Pat McCormick of CSMA.

070 DILORENZO: Identifies CSMA as a voluntary non-profit trade organization representing more than 440 firms engaged in the manufacture, formulation, distribution and sale of chemical specialties for household use and have been active in poison prevention efforts over many years.

080 DILORENZO: Explains that SB 317 is designed to bring closure to the bittering agent debate and to establish the position of the anti-freeze industry throughout the entire nation. Gives background citing 1991 Oregon Legislature enactment of law requiring addition of aversive agents to ethylene-glycol based anti-freeze.

091 DILORENZO: Industry concerned with lack of data as to toxic effects and health impacts of bittering agent. There is a lack of data as to long-term health effects.

105 CHAIR: By long-term, how many years are you considering?

107 DILORENZO: Five-ten years. Oregon is discussing the mandate of a bittering agent, without the clear proof as to the health effects. The task force created on this issue earlier has taken the industry perspective on the issue. Companies include Dow Chemical and several others.

144 DILORENZO: Bill provides for partial immunity of companies from liability in the event of injury resulting accidentally. Also discusses other portions of the bill.

162 DILORENZO: Bill should pass for variety of reasons including a lack of credible opposition (Refers to LC 1443). Companies' concern is with absolute lack of data as to long-term health effects. Unfair to require companies to include a bittering agent and yet not provide protection for the company in the event of litigation in the future.

193 DILORENZO: This bill was modeled by a similar bill in the last session. Refers to example of a group of students' tragic accident. SB 915 is referred to.

206 DILORENZO: The bill does nothing to protect children. The opposition forces the industries to either total product withdrawal, or subject themselves to potential litigation.

218 DILORENZO: Oregon is only state in the union with a bittering law.

234 DILORENZO: Refers to a national committee and its findings on the issue. States the bill can set a national precedent; it is good public policy; it is fair to manufacturers.

248 Jeff Huntington, Assistant Attorney General: Testimony in support of SB 317. Refers to task force.

323 Brent Burton. M.D., Oregon Poison Control Task Force: Testimony in support of SB 317. Speaks from personal perspective from a health view, regarding liability. Bill will allow industry better playing field.

388 CHAIR: Question regarding liability clarification.

TAPE 10, SIDE A

001 BURTON: Responds to question.

016 HUNTINGTON: Explains the makeup of task force: The head of Poison Center at Oregon Health Sciences University, a chemist/toxicologist from Oregon State University, a practicing pediatrician, a representative from the

Director of the Public Health Division and an industry representative. All the members of the task force, by statute, have a great deal of expertise in determining chemical properties and dealing with toxicology issues. Speaks regarding trust of opinions above.

031 Pat McCormick, Aversive Agents: Addresses concerns; refers to Lynn Tylczak's documentation. She attempted to negotiate legal bill reimbursement.

096 Lynn Tylczak: Submits written testimony (EXHIBIT B) in opposition to SB 317.

Testifies has no legal bills and asks that funds to be given to a non-profit organization in Albany.

191 CHAIR: Questions regarding CSMA, fees, et cetera.

163 TYLCZAK: Responds to CHAIR's question.

171 CHAIR: Quotes contradictions in Tylczak's terms.

180 TYLCZAK: Further comments regarding consideration, motivation.

202 CHAIR: Further questions regarding above.

213 TYLCZAK: Insists wants to protect children.

226 CHAIR: Clarifies Tylczak's position. Calls DILORENZO regarding above. Introduces ROBERT VETTERE in regard to the addition of liability clause to measure.

272 TYLCZAK: Responds in the positive to chair question regarding agreement.

290 DILORENZO: Reiterates position of both parties upon completion of prior informal coffee shop meeting.

303 CHAIR: Asks for agreement of good faith.

315 DILORENZO: Sums up in the positive.

321 CHAIR: Expresses concerns over prior spoken agreement.

338 TYLCZAK: Expresses naiveness in the legal area.

349 SEN. DERFLER: Thanks TYLCZAK.

365 SEN. MCCOY: Questions whether legal liability can be legislated.

379 CHAIR: Asks HUNTINGTON to respond to above.

390 HUNTINGTON: Responds to MCCOY'S question, offers to respond in writing in 24 hours.

400 CHAIR: There is a subsequent referral to judiciary. If the Attorney General flags difficulties I would, as your chairman, commit to send it back or send it on to Judicial.

TAPE 9, SIDE B

013 CHAIR: Closes PUBLIC HEARING on SB 317.

030 CHAIR: Opens WORK SESSION on SB 317.

020 SEN. DERFLER: I don't think we have limited the liability. The liability does go to the manufacturer of the agents. The public isn't getting any loss of ability to get monies back if they are harmed; we are transferring it to the people who produce the product.

066 HUNTINGTON: Responds to question whether he can present an opinion.

084 CHAIR: Closes the WORK SESSION on SB 317.

085 CHAIR: Opens PUBLIC HEARING on SB 12.

101 WITNESSES: Bill Cross, Willamette Valley Vineyards

102 Bill Cross, Willamette Valley Vineyards: Submits written testimony in support of the bill (EXHIBIT C). Confirms intent of bill; clarifies several items.

111 SEN. DERFLER: Did you believe this was in the previous legislation?

125 CHAIR: Closes PUBLIC HEARING on SB 12.

125 CHAIR: Opens WORK SESSION on SB 12.

MOTION: SEN. DERFLER moves SB 12 to the Floor with a DO PASS recommendation.

135 VOTE: MOTION PASSES.
AYES: DERFLER, LIM, MCCOY and KENNEMER
EXCUSED: DUKES
CARRIER: LIM

135 CHAIR: Closes WORK SESSION on SB 12.

140 CHAIR: Opens PUBLIC HEARING on SB 15.

WITNESSES: Bill Cross, Willamette Valley Vineyards
Chris Lyons, Administrator of OLCC .

148 Bill Cross, Willamette Valley Vineyards: Submits written testimony in support of the bill (EXHIBIT D). Describes qualifications regarding package store license, sampling.

167 SEN. MCCOY: Asks for fiscal impact clarification.

173 CROSS: Affirms that it is not a significant amount.

178 Chris Lyons, Administrator of OLCC: Responds to fiscal impact question; has no concerns regarding this bill.

193 CHAIR: Closes PUBLIC HEARING on SB 15.

195 CHAIR: Opens WORK SESSION on SB 15.

200 MOTION: SEN. LIM moves SB 15 to the Floor with a DO PASS recommendation.

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

210 CHAIR: Closes WORK SESSION on SB 15.

211 CHAIR: Opens PUBLIC HEARING on SB 16.

WITNESSES: Bill Cross, Willamette Valley Vineyards

216 Bill Cross, Willamette Valley Vineyards: Submits written testimony in support of SB 16 (EXHIBIT E). Testimony to clarify inadvertent omission of items covered in this bill.

228 CHAIR: Closes PUBLIC HEARING on SB 16.

236 CHAIR: Opens WORK SESSION on SB 16.

239 MOTION: SEN. DERFLER moves SB 16 to the Floor with a DO PASS recommendation.

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

240 CHAIRMAN: Closes WORK SESSION on SB 16.

247 CHAIR: Opens PUBLIC HEARING on SB 23.

250 COMMITTEE ADMINISTRATOR, DARRELL FULLER, gives overview of bill.

WITNESSES: Bill Cross, Willamette Valley Vineyards
Paul Romain, Oregon Beer and Wine Distributors Association

259 BILL CROSS: Submits written testimony in support of the bill (EXHIBIT
F). Explains bill, ownership, et cetera.
Introduces Paul Romaine.

299 SEN. DERFLER: Questions applicability beyond Willamette Valley Winery.

305 CROSS: Explains application. Mentions Ponzi Vineyards.

328 SEN. DERFLER: Question regarding licensing intent.

336 CHAIR: Asks ROMAIN to testify regarding legal aspects.

354 Paul Romain, Oregon Beer and Wine Distributors Association: Responds
regarding licensing.

391 CROSS: Comments regarding motive.

400 ROMAIN: Current bill attempts to clarify and prevent further problems
with the past
legislation.

TAPE 10, B

004 ROMAIN: Continues, they don't want to do anything in SB 23 that will
conflict with work done in SB 266.

025 CHAIR: Closes PUBLIC HEARING on SB 23.

026 CHAIR: Adjourns meeting at 4:30 p.m.

Submitted by:

Reviewed by:

Carol A. Smith,
Committee Assistant

Darrell W. Fuller
Committee Administrator

EXHIBIT LOG:

A -- Testimony on SB 317, John DiLorenzo - 91 pages
B -- Testimony on SB 317, Lynne Tylczak - 2 pages
C -- Testimony on SB 12, Bill Cross, Willamette Valley Vineyards - 1 page
D -- Testimony on SB 15, Bill Cross - 1 page
E -- Testimony on SB 16, Bill Cross - page
F -- Testimony on SB 23, Bill Cross - 1 page