

SENATE COMMITTEE ON  
BUSINESS AND CONSUMER AFFAIRS

Hearing Room  
Tapes 49 & 50

MEMBERS PRESENT:

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

MEMBER EXCUSED:

STAFF PRESENT:

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

MEASURES HEARD:

SB 13: Public Hearing  
SB 394: Public Hearing  
SB 524: Public Hearing and Work Session  
SB 548: Public Hearing  
SB 549: 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 49, A

004 CHAIR KENNEMER: Calls the meeting to order at 3:00 p.m. SEN. DERFLER is excused. We will begin the meeting as a subcommittee.

002 CHAIR: Opens PUBLIC HEARING ON SB 13.

DARRELL FULLER, COMMITTEE ADMINISTRATOR: Reads overview. No fiscal or revenue impact.

011 WITNESSES: Bill Cross, Willamette Valley Winery  
Pete Jensen, Oregon Winegrowers Association  
Dick Erath, Knudsen-Erath Winery  
Terry Casteel, Bethel Heights Vineyard  
Paul Williamson, Oregon Liquor Control Commission

018 Bill Cross, Willamette Valley Vineyards: Gives history and reasons for introduction of the bill. Asks their name be removed as requester.

040 Pete Jensen, President of Oregon Winegrowers Association: Submits testimony in support of the bill (EXHIBIT D). Explains that under existing law an Oregon winery can be called and can ship wine to an out-of-state location, but cannot send within Oregon. This restriction also places us at a disadvantage with other states.

(3:15 p.m. SEN. DUKES enters the meeting.)

049 JENSEN: Lists states that are not similarly restricted. Major retail outlets have no trouble with SB 13. Will not have a problem with Oregon Wine Distributors. Introduces NICK ERATH from

Knudsen-Erath Winery.

066 CHAIR: Opens FULL COMMITTEE meeting at 3:17 p.m.

070 CHAIR: Question about case limit similarity in other states. Suggests research; wants to know the standard allowed; is this consistent with other states?

082 SEN. DUKES: You said would not be allowed to deliver to obviously intoxicated person.

How do we know United Parcel Service won't, and how do we know that isn't going to happen?

088 JENSEN: Oregon Revised Statutes addresses this.

098 CROSS: They complete an Oregon Liquor Control Commission basic requirement training.

100 SEN. DUKES: If we have these statutes, would like to know what they are.

124 CHAIR: In the past that was already the case, assumed it was still that way.

129 CROSS: In response to question from CHAIR regarding the quantity limit; in reading the bill he does not find a reference that cites that limit.

140 CROSS: Reference in the bill to the Oregon Revised Statute. Finds a discrepancy and says, yes, there is a mistake in the bill.

157 SEN. DUKES: Out of curiosity, does your organization care about that quantity?

160 Terry Casteel, Bethel Heights Vineyard: Refers to how it would function. This is really a matter of customer service, especially because of remoteness. The customer has to travel to the winery.

(3:20 SEN. DERFLER enters the meeting.)

191 CHAIR: Asks what the cost of an average case of Oregon wine would be?

200 Richard Erath, Knudsen-Erath Winery: The 1987 legislation viewed wine as a beverage of moderation. The two case amount had a lot to do with that; something you enjoy with your meal. We have been making wine since 1972. We have varieties available that are not carried at Safeway.

232 SEN. DERFLER: Asks for a definition of a winery licensee.

245 CROSS: Talked with PAUL WILLIAMSSON of OLCC; UPS is the only approved carrier who has gone through the alcohol training program.

260 Paul Williamson, OLCC: Our commissioners have taken a neutral position on this.

274 CHAIR: Closes PUBLIC HEARING on SB 13.

278 CHAIR: Opens PUBLIC HEARING on SB 394.

WITNESSES: Kelly Hagen, Oregon Medical Association  
Jim Harlan, Division of Finance and Securities  
John Powell, Blue Cross

280 DARRELL FULLER: Gives overview of the bill. States supporters have asked for amendments. There is no revenue impact and minimal fiscal impact.

292 Kelly Hagen, Oregon Medical Association: Submits written testimony in support of the bill (EXHIBIT E). States the essence of the -2 amendments. Refers to the "Blue Sky Law". The current dominant business is non-profit taxable status. This would allow formation of for-profit entities without the expense of "Blue Sky Law" registration. This is not an exemption that would involve the public. The whole idea is a business form to help individuals practice medicine.

324 SEN. DERFLER: You are saying you want to be able to sell to another physician?

325 HAGEN: These are not investments.

330 SEN. DERFLER: Securities are usually considered an investment.

337 HAGEN: Explains.

338 SEN. DERFLER: Why do you need a law to do that?

342 HAGEN: Unless exempted diligence and disclosure are the main expenses involved.

370 SEN. DERFLER: They would be buying shares of a business.

377 SEN. DERFLER: Question regarding securities.

382 SEN. DUKES: Is the registration expensive?

393 HAGEN: The registration is not that onerous. It is the other expenses that rack up the total.

400 James Harlan, Chief of Securities and Licensing, Division of Finance and Securities. Submits written testimony on behalf of Cecil Monroe, Department of Consumer and Business Services, (EXHIBIT A) in opposition to the bill.

407 CHAIR: Letter from CECIL MONROE addresses two concerns. Will you explain these.

418 HARLAN: Responds to question from CHAIR regarding CECIL MONROE's letter. We are not clear as to the essential need for the amendments. We are not certain that there is a need for the bill or its amendments.

TAPE 50, SIDE A

009 HARLAN: Continues, regarding costs being reduced. Next refers to CECIL MONROE's letter. The bill as currently drafted is limited to physicians licensed to practice in Oregon. Our concern is rationale of limiting to physicians only, and if not limited simply to physicians, where on the out-take do we place any kind of limits on exempt transactions?

(3:40 CHAIR KENNEMER leaves momentarily; asks SEN. DERFLER to take over.)

026 John Powell, Blue Cross: Submits written testimony (EXHIBIT F). Quotes 50 percent numbers. They are currently working with systems that allow the formation of these. Their company logo would be used. In that line if a new system is allowed, others should be allowed to participate up to some point.

048 SEN. DERFLER: Question concerning risk.

050 POWELL: Yes, anyone who invests is taking some kind of risk.

060 POWELL: Refers to amendment on SB 394, would at least want to talk to the sponsors. We would also want to enjoy those savings.

066 SEN. DUKES: States these are the third amendments on this bill.

070 POWELL: This is an area that we currently invest in.

075 SEN. DERFLER: I guess I would question why you even need the bill.

084 HAGEN: The expense is a deterrent.

097 SEN. DERFLER: You are asking to be exempt as long as it is an in-house sale?

101 SEN. DERFLER: If we open up, wouldn't that create more risk?

112 POWELL: Perhaps an area that needs attention: The physicians doing the practicing. A group of physicians in Portland could use these funds to open a practice in bend. We would like the same latitude.

125 HAGEN: Refers to Corporations Division.

(3:45 CHAIR KENNEMER returns to the meeting.)

132 SEN. DERFLER: Question regarding using the -2 amendments.

137 HAGEN: Yes, I guess they could.

146 CHAIR: Asks HARLAN a question regarding the benefit of the bill to the physicians.

154 HAGEN: Our concern is that the benefits arise to the need of what is a uniform securities act and involve "Blue Sky Law". We have suggested alternatives to the proponents.

170 CHAIR: Question about alternatives.

174 HAGEN: We already have in place registration that is designed to parallel certain federal exemptions. Those alternatives are already in place. These do incur legal and accounting costs.

197 CHAIR: In the simplest of terms it creates a cost-saving mechanism.

(3:47 p.m. SEN. LIM joins the meeting.)

206 HAGEN: Addresses concern regarding moving transactions into the public. At this point we don't see any justification for that. Refers to the proposed shareholders in these transactions.

(3:55 p.m. SEN. DUKES leaves the meeting.)

230 POWELL: Continues testimony regarding competing with physicians; an amendment should allow them to use those same mechanisms.

241 SEN. DERFLER: I would suggest that we do not proceed with the bill. I would be hesitant to pass the bill out if the Department isn't really comfortable with it.

251 HAGEN: Is hesitant to give an opinion.

256 CHAIR: We are having trouble understanding the compelling reason for this bill. We are opening up a major statute. I would encourage you to work with the Department of Business and Consumer Services and POWELL.

267 CHAIR: Closes PUBLIC HEARING on SB 395.

CHAIR: Opens PUBLIC HEARING on SB 524.

270 DARRELL FULLER: Reads overview of SB 524; there are no subsequent referrals or impacts. Amendments have been requested; gives details regarding those.

WITNESSES: Jim Gardner, Toyota, Mercedes, General Motors  
Larry Culbertson, Department of Business and Consumer Services  
Tom Fitz, Lexus Financial Services

283 Jim Gardner, Toyota, Mercedes, General Motors: Submits written testimony in support of the bill (EXHIBIT B). You get more for your money when you lease; but there are sticky wickets when you go with leasing; i.e., stolen or totaled vehicles. Insurance covers part of that; may not cover entire loss. The gap can be a significant deterrent. The leasing companies have sought to address that by placing a gap clause in the leasing contract. That is a very important pro-consumer item. One technical problem arose with that. The code: This could then possibly be considered insurance. The division, to its credit, said that it is a pro-consumer clause. They worked with us to see it was exempt; refers to -2 amendments.

380 Larry Culbertson, Department of Consumer and Business Services: We have no opposition to it the way the amendments are set.

417 TOM FITZ, Branch Manager of Toyota Motor Credit and Lexus Financial

Service: Have no other comments.

420 CHAIR: Closes PUBLIC HEARING on SB 524.

421 CHAIR: Opens WORK SESSION on SB 524.

422 MOTION: SEN. DERFLER moves to ADOPT the -2 amendments.

VOTE: CHAIR: Hearing no objection, the amendments are ADOPTED.  
SEN. DUKES is EXCUSED.

430 MOTION: SEN. DERFLER Moves SB 524, AS AMENDED be sent to the  
floor with a DO PASS recommendation.

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

440 CHAIR: Closes WORK SESSION on SB 524.

TAPE 49, SIDE B

043 CHAIR: Opens PUBLIC HEARING on SB 548 and SB 549.

DARRELL FULLER: Gives overview and history of prior committee work on the  
bills.

WITNESSES: Ray Boucher, Board of Architect Examiners  
Kenneth Nagao, Board of Architect Examiners  
Eleanor Gundran, Board of Architect Examiners

055 Kenneth Nagao, Board of Architect Examiners: Submits written testimony  
(EXHIBIT C).

064 BOUCHER: Explains the two bills and the intent of both measures. The  
law does not allow multi-disciplined firms  
unless majority are architects. Refers to Portland's Blazer arena.

( 4:12 SEN. DUKES returns to the meeting.)

090 BOUCHER: Continues with history regarding the Blazer organization and a  
paper entity to create the correct  
responsibilities. This is modeled after a law by the National Council of  
Architect Boards.

100 -Practice of architects and general corporations. Limited liability  
companies. Only accountants were included  
originally. Engineers can now; architects cannot.

127 -Amendments and suggestions for the bill. Refers to exhibit by first  
witness, KEN NAGAO.

129 NAGAO: Refers to zones. Addresses potential for earthquakes. Wants  
the groups to work together, this needs to be  
integrated throughout the country; in Oregon architects cannot. That is  
one reason why we are proposing this. Refers  
to his amendment. Refers to percentage of ownerships and gives details.

167 BOUCHER: Refers to areas in the model legislation. As it is now, a  
paper entity is required, or the majority of the  
professionals must register within the state in order to provide services  
to the state.

185 NAGAO: Our boards get together with other boards to produce  
reciprocity.

206 BOUCHER: States an entity must be licensed in the state.

211 SEN. MCCOY: Asks what happened with the Blazer Arena.

216 BOUCHER: The Blazer organization found a qualified entity that builds  
sports facilities. They could not meet  
Oregon's requirements. Goes into details of how the problem was met and  
solved.

250 SEN. MCCOY: In other words our architectural board encouraged them to  
do that?

250 BOUCHER: They had no choice, they had to comply with the law.

268 SEN. MCCOY: Suggests he should bring a class action suit against the Blazer organizations.

278 SEN. MCCOY: I want to chastise the Architectural Board. Why was this allowed to happen?

287 Eleanor Gundran, Board of Architect Examiners: Responds to SEN. MCCOY's question. We obtained an Attorney General's opinion.

303 SEN. MCCOY: Is this the same outfit that built an arena in Salt Lake City?

324 CHAIR: We have a consensus; let's integrate these two bills.

338 CHAIR: Wants FULLER to talk to Legislative Counsel on these amendments.

343 Stephen Kafoury, Architects Council: Explains why he asked to have distinctions made between entities. Refers to partnerships, companies and limited liability. Suggests confer with Legislative Counsel regarding these so that area is covered.

390 SEN. MCCOY: In the model law is that the way they see it?

394 BOUCHER: No, explains that the model law was written before the development of limited liability companies or partnerships.

400 CHAIR: Can you get together with FULLER and work this out?

TAPE 50, SIDE B

002 CHAIR: There is a concurrence about the intent.

009 FULLER: Explains subsequent referral and getting back to the committee.

014 CHAIR: Closes PUBLIC HEARING on SB 548 and 549.

017 CHAIR: Adjourns the meeting at 4:40 p.m.

Submitted by, Reviewed by,

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

EXHIBIT SUMMARY:

A - Testimony on SB 394 - James Harlan on behalf of Cecil Monroe - 1 page  
B - Testimony and proposed amendments to SB 524 - Jim Gardner - 4 pages  
C - Proposed amendments to SB 548 - Kenneth Nagao, State Board of Architects - 2 pages  
D - Testimony on SB 13 - Peter Jensen, Oregon Winegrowers Association - 2 pages  
E - Proposed -2 amendments to SB 394 - Kelly T. Hagen, Oregon Medical Association - 1 page  
F - Proposed amendments to SB 394 - John Powell - 1 page