

Senate Rules Committee
5/30/95

SENATE COMMITTEE ON
RULES AND ELECTIONS

May 30, 1995 Hearing Room
 Tapes 85 - 86

MEMBERS PRESENT: Sen. Randy Miller, Chair
Sen. Paul Phillips, Vice-Chair
Sen. Brady Adams
Sen. Dick Springer
Sen. Shirley Gold

STAFF PRESENT: Kristina McNitt, Committee Administrator
Gretchen Haber, Committee Assistant

MEASURES HEARD: HB 2761 - Public Hearing/Work Session
 HB 3060 - Public Hearing/Work Session.
 HB 2661 - Public Hearing/Work Session.
 HB 3384 - Public Hearing/Work Session
 HB 3419 - Public Hearing/Work Session

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 85, SIDE A

007 CHAIR MILLER: Calls the committee to order.

HB 2761 - Public Hearing/Work Session

Witnesses: Rep. Lonnie Roberts, House District 21
 Ron Harlan, Veterans of Foreign Wars; United Veteran Groups of Oregon
 Jim Carlson, Oregon Health Care Assn.; Oregon Assn. of Homes for the Aging

010 REP. ROBERTS: The bill would establish a second veterans retirement
home. It will save the state about \$1.2 million per biennium through the
Medicare savings. Coquille has already established a bonding fund of \$3
million; there will be federal matching funds of \$6 million. They've also
set aside 15 acres of land. Because the first veterans home has not broken
ground yet, Oregon is still at the top of the list to get federal money.

035 RON HARLAN: There will be a need for over 400 beds. A survey was done
in 1991 predicted there would be 333,000 veterans in Oregon; currently we
have 380,000. Thirty percent are 65 years or older. Many veterans have
special care needs and aren't acceptable to private nursing homes because
the rate of reimbursement isn't adequate. There's about one hundred on the
waiting list now. Provides additional information (EXHIBIT A).

062 JIM CARLSON: Supports the measure as long as it includes the amendments
adopted by the House.

072 SEN. SPRINGER: Does the State Dept. of Veterans Affairs support the

bill?

081 HARLAN: Lyle Frasier, Dept. of Veterans' Affairs, has told me that he could live with this, with the amendments.

MOTION: SEN. SPRINGER: Moves HB 2861 to the Floor with a do pass recommendation.

VOTE: Hearing no objection, the motion is adopted.

HB 3060 - Public Hearing/Work Session.

Witnesses: Steve Doell
Rep. Mike Fahey, House District 17
Rep. Bob Tiernan, House District 24

098 REP. FAHEY: This bill deals with hit and run driver bill. Introduces Steve Doell.

104 STEVE DOELL: Asks that HB 3060 be passed by the Senate. (EXHIBIT B). The bill asks that a drunk driver who kills someone have their license revoked eight years. For a driver who kills someone and fails to fulfill the requirements of a driver the revocation is five years. Prior to the law this measure amends, hardship permits are given only to those whose license was suspended, not revoked. A revocation can only be lifted when the governor pardons the person of their crime. I would like to propose an

amendment to the bill: on page 1, line 2, after the semi-colon: "this act applies to persons convicted on or after the effective date of this act as well as to any person who, on the effective date of this act, is incarcerated, on parole, on post-prison supervision, or on probation for one of the offenses that subjects a person to the provisions of this act. If a person subject to this act is on parole, post-prison supervision, or probation on the effective date of this act, the period of revocation required by this act shall begin on the effective date of this act." It is

right for a person who has run down and killed people to receive their drivers' license the day the walk out of prison.

191 REP. BOB TIERNAN: Provides history of the bill. Was surprised to learn that Michael Whitaker could get a drivers' license once he gets out of prison. The measure is reasonable, given the limits placed on other murder weapons. You can apply for a hardship permit after ten years.

MOTION: Chair Miller moves HB 3060 to the Floor with a do pass recommendation.

229 CHAIR MILLER: The amendments sound "ex post facto," and could jeopardize the bill.

231 SPRINGER: That would be a consideration for the courts. If it is the desire to move the bill today, it should probably go without the amendments, given it may be struck down by a court later.

VOTE: Hearing no objection, the motion is adopted. Sen. Phillips excused.

HB 2661 - Public Hearing/Work Session.

Witnesses: Tim Martinez, Oregon Medical Association
Kate Pelosi, Oregon Chapter of the American College of Nurse-Midwives
Ed Patterson, Oregon Assn. of Hospitals and Health Systems
Susan King, Oregon Nurses Association

Elizabeth Florio, Oregon Assn. Of Home Care
Jenny Ulum, Peace Health Organization

251 TIM MARTINEZ: The B-engrossed bill is an effort at compromise between the OMA, the Oregon Hospitals and Health Systems, the Oregon Nurses Assn. and others. It is simply an attempt to clarify legislation passed last session dealing with nurse practitioners. The intent is not to harm any class of practitioners, including nurse mid-wives.

272 ED PATTERSON: Supports HB 2661.

278 SUSAN KING: We can live with the language; it doesn't do any harm to any category of nurse practitioner.

284 KATE PALOSI: Testifies in favor of HB 2661 (EXHIBIT C).

315 SEN. GOLD: Is there agreement on the measure?

320 PALOSI: We have serious concerns that it may impact our practice. We have successfully worked with hospitals, but there is other very good legislation in terms of home health legislation, and we don't want to compromise that.

340 SEN. SPRINGER: Notes that the Oregon Health Sciences University oppose the bill. Is there anyone here representing them?

357 PALOSI: Those lobbyists are out of town. OHSU share our concern that changing the existing statutes could impact the ability to have independent

practice privileges for nurse midwives and because nurse midwives are a strong element in pregnancy care health policy. I do believe we have worked to find a compromise, but we are running out of time.

367 SEN. SPRINGER: Is concerned that women will not seek medical attention prior to giving birth.

387 MARTINEZ: The hospitals do want women to seek prenatal care. This is simply a clarifying bill and does not change the admitting privileges of nurse midwives.

390 SEN. SPRINGER: What is wrong with current law?

392 MARTINEZ: Present law has been subject to a variety of interpretations.

Tape 86, Side A

004 ELIZABETH FLORIO: We are in support of HB 2661, particularly section three.

020 JENNY ULUM: Testifies in favor of HB 2661 (EXHIBIT D).

MOTION: Sen. Adams moves HB 2661 be sent to the Senate Floor with a do pass recommendation.

VOTE: Sen. Springer voting no, the motion passes, Sen. Phillips excused.

HB 3384 - Public Hearing/Work Session (EXHIBIT E)

Witnesses: Rep. Johnston, House District 31
Rep. Strobeck, House District 06
Rep. Bob Tiernan, House District 24
Doug Killian, Oregon Coalition for Free Expression
David Fidanque, American Civil Liberties Union
Mike Dewey, Oregon Cable Television Association

040 REP. STROBECK: HB 3384 deals with the access to obscene programming on local cable access station. This brings a degree of regulation and control

by declaring PEG channels to be public places and extending the same restrictions as to what can be done in a public place to the PEG channels.

Notes strong support by the House of Representatives. Introduces -A6 amendments (EXHIBIT F) which clarify who has control of these programs.

060 REP. JOHNSTON: The amendments are technical. We've included two different types of restrictions in these programs, time and content restrictions which have been upheld by the courts, and the public place restriction which is new and may be challenged, and is innovative.

072 SEN. SPRINGER: Could you explain "extensive violence" and what are the sanctions?

077 REP. JOHNSTON: That language was adopted from the voluntary contracts that are signed by producers. There will be some disagreement as to what those terms mean, and there will be some court decisions as to what those terms mean.

096 SEN. SPRINGER: If I want to watch a surgery update program, I must watch those between 10:30 p.m. and 5:30 a.m.?

098 SEN. STROBECK: If you want to watch those shows on a PEG channel, yes you would be restricted. It would not affect other channels.

101 REP. BOB TIERNAN: This started with the Jim Spagg show and kids watching that program. Orgy TV subsequently followed. This requires that if an activity is illegal in a public place, it cannot be broadcast without your permission.

123 DOUG KILLIAN: Testifies that measure may be unconstitutional. The Federal Communications Commission heavily regulates this area. The same questions are being dealt with federally. How could one predict obscenity in a live broadcast? There are no enforcement provisions. For those reasons, the Coalition of Booksellers, Librarians, Video Store owners remain opposed to HB 3384.

154 DAVID FIDANQUE: Testifies against HB 3384. The bill is preempted by federal law, and would be found unconstitutional under both the Oregon and Federal Bill of Rights. This area is regulated by Congress and the FCC. Orgy TV is allegedly produced by an anti-pornography activist and Portland Cable Access has gone to federal court to get an injunction to prohibit the airing of those programs. If you try to include public TV under public indecency law, you should do that in the criminal code, not a separate law.

180 MIKE DEWEY: Our organization takes no position on the bill. It is flawed, and amendments have been drafted to address those problems. The bill requires cable companies to block out specific programs, and most companies cannot do that. We have asked that language referring to specific programs be amended out of the bill. The bill also refers to the programmer; the cable operator in most cases is not the programmer for public access. If there were any sanctions it should not go toward the programmer. There is a federal requirement under customer service provisions that we are to provide information annually about parental control devices or channel blocking. This bill requires a six-month notice, and it should conform to federal regulations (EXHIBIT G). It is imperative the -7 amendments are adopted.

MOTION: Sen. Adams moves adoption of the -7 amendments.

VOTE: Hearing no objections, the motion passes. Sen. Gold excused.

MOTION: Sen. Adams moves adoption of the -6 amendments.

VOTE: Hearing no objections, the motion passes. Sen. Gold excused.

MOTION: Sen. Adams moves HB 3384 to the Senate Floor as amended with a do pass recommendation.

VOTE: Sen. Springer voting no, the motion passes. Sen. Gold excused.

HB 3419 - PUBLIC HEARING/WORK SESSION

Witnesses: Butch Harbaugh, BikePAC of Oregon, Inc.
Joanne Fairchild, Trauma Division, Emanuel Hospital

252 BUTCH HARBAUGH: Testifies in support of HB 3419 (EXHIBIT H) and explains motorcyclists began their own bike safety program.

- Does not support mandates on safety behavior
- Most accidents are the fault of the motorist, rather than the bicyclist.

- Many accidents are the result of the driver acting under the influence of alcohol.

- We are responsible adults, and should not be criminals for riding without a helmet.

- Hot weather is exacerbated by wearing a helmet, and the heat is distracting to the driver.

- Helmet laws represent unwelcome government intrusion into citizen's private lives; a large group of people are controlled by a minority.

409 CHAIR MILLER: What was the vote in the House?

410 HARBAUGH: 52-7. The information that is being distributed by opponents is disheartening and incorrect. Our information comes from the Oregon Dept. of Transportation.

Tape 85, Side B

030 HARBAUGH: Once helmets were required, riders were pulled over because their helmets didn't meet standards, (although they met the legal criteria), and then the officer takes your helmet. This law has been used as an excuse for harassment.

- In the hundreds of citations given for wearing an unsafe helmet, only one has been riding a bike other than a Harley-Davidson.

- We support the wearing of helmets, but it should be a choice.

- The cost of issuing a citation for an illegal helmet is \$1200. Hundreds of these citations have been thrown out by the courts.

048 CHAIR MILLER: How do you respond to the argument that head injuries cause by not wearing a helmet is born by the state?

050 HARBAUGH: This argument was thrown out years ago. We have yet to find someone with a head injury caused by a motorcycle accident. The most recent study on this is from the University of South Carolina and is included in my written testimony.

072 JOANNE FAIRCHILD: Testifies against HB 3419.

- The reason for the safety belt law and the helmet is law is to protect responsible citizens and prevent accidents none of us can afford.

- Research done by Dr. William Long in 1988 showed the unhelmeted motorcyclist was much more likely to be uninsured than the helmeted rider.

Because care has to be provided the cost is passed along to others. Who will go without care to pay for injuries that were unnecessary?

- Cites case where police officer would have been killed without his helmet.
- Death rate has gone down since enactment of the law.
- Reads letter by John Tongue, orthopedic surgeon which suggests data presented by proponents of the measure is flawed. Finds a 53% reduction in

deaths.

145 CHAIR MILLER: Do you agree that people would be safer in a car if they wore a helmet?

163 FAIRCHILD: Thinks it would be unnecessary because of safety belts, but reluctantly agrees that people would be safer if they wore a helmet.

187 CHAIR MILLER: Recesses committee.

187 CHAIR MILLER: Reconvenes meeting.

190 CHAIR MILLER: Closes the hearing on HB 3419 and adjourns the meeting at

4:43 p.m.

EXHIBIT SUMMARY

A - testimony, HB 2761, Harlan, 6 pgs.
B - testimony, HB 3060, Doell, 3 pgs.
C - testimony, HB 2661, Palosi, 4 pgs.
D - testimony, HB 2661, Ulum, 2 pgs.
E - staff measure summary, HB 3384, staff, 1 pg.
F - proposed amendments, HB 3384, staff, 1 pg.
G - proposed amendment, HB 3384, staff, 1 pg.
H - testimony, HB 3419, Harbaugh, 85 pgs.
Additional Testimony Supplied for the Record:
I - testimony, HB 3419, Higginson, 1 pg.
J - testimony, HB 3419, Marges, 3 pgs.