

HOUSE COMMITTEE ON GENERAL GOVERNMENT

July 21, 1993 Hearing Room 357 8:00 a.m. Tapes 88 - 89

MEMBERS PRESENT: Rep. Cedric Hayden, Chair Rep. Jim Edmunson,  
Vice-Chair Rep. Ken Baker Rep. Carl Hosticka Rep. Patti Milne Rep. Chuck  
Norris Rep. Del Parks Rep. Lonnie Roberts Rep. Sharon Wylie

STAFF PRESENT: Janet Adkins, Committee Administrator Julie Dow,  
Committee Researcher Priscilla Boyle, Committee Assistant

MEASURES CONSIDERED: SB 7 SB 567 SB 769 SB 1084 SB 259

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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. [--- Unable To Translate  
Graphic ---]

TAPE 88, SIDE A

007 CHAIR HAYDEN calls the hearing to order at 8:13 a.m.

WORK SESSION ON SB 7

015 JULIE DOW, COMMITTEE RESEARCHER: Reviews SB 7 and submits Memo from  
Jane Ard (EXHIBIT A), newspaper article (EXHIBIT B), opinion letter  
excerpts (EXHIBIT C) > Issues not addressed in SB 7 > Age issue;  
whether or not a specific shipwreck would be considered an archeological  
site of significance or goods found would be

archeological objects

054 REP. ROBERTS: In my opinion if we don't have SB 7 according  
to the Attorney General's opinion we might have some problems because  
statute and the Attorney General's opinion don't agree and it will take  
this bill to join the two.

074 CHAIR HAYDEN: (To the committee) Do you think SB 7 makes things  
better or worse?

077 REP. PARKS: Since only three permits have been issued in 25 years  
and no one has found anything where the State has received any money, I  
think we ought to pass it.

081 CHAIR HAYDEN: If we make it more difficult for treasure hunters to  
keep a portion of their treasure, nobody will be out there looking for  
it and it will wrought away and be recycled by Mother Nature.

084 REP. PARKS: This sounds like a matter for an Interim study.

088 MOTION: REP. ROBERTS MOVES SB 7 TO THE FLOOR WITH A DO  
PASS RECOMMENDATION

092 CHAIR HAYDEN: Will this allow more exploration or less?

094 REP. ROBERTS: I don't think it will make a difference either way.

095 REP. WYLIE: I think it provides some clarity as to what the ground rules are.

100 REP. ROBERTS: The base of archeological is there is a basis of knowledge to be gained from whatever it is we are talking about. I agree with Rep. Wylie that it clarifies the rules.

104 CHAIR HAYDEN: The problem is no knowledge will be gained if nobody explores it. The State can't afford to explore it.

107 REP.ROBERTS: Under the A.G.'s opinion that's the way it will be.

115 CHAIR HAYDEN: I think if someone finds something that's a value to humanity and the State can't or won't afford to purchase it, the find should go to the finder.

118 REP. MILNE: I'm not sure the bill clarifies anything. There's seems to be a doubt in several people's minds what the bill will or won't do.

124 REP. HOSTICKA: If it's been on the ocean floor for 300-400 years, I suppose it could stay there a few more years while we try to figure it out.

130 VOTE: IN A ROLL CALL VOTE MEMBERS VOTING AYE, REP. BAKER, REP. EDMUNSON, REP. HAYDEN, REP. HOSTICKA, REP. ROBERTS AND REP. WYLIE. MEMBERS VOTING NO, REP. MILNE, REP. NORRIS AND REP. PARKS

Rep. Roberts will carry the bill.

WORK SESSION ON SB 567

145 JANET ADKINS, COMMITTEE ADMINISTRATOR: Reviews SB 567. > Deregulates the intrastate transportation of wood pellets > Does not exempt carriers from other requirements for safety and insurance

157 REP. ROBERTS: Have the (-1) amendments been accepted? JANET ADKINS: They were adopted by the full committee on June 15.

164 REP. ROBERTS: The (-1) amendments are a compromise the Oregon Trucking Association offered.

172 MOTION: REP. PARKS MOVES DELETION OF THE (-1) AMENDMENTS THAT WERE ADOPTED BY THE FULL COMMITTEE

175 REP. ROBERTS: I oppose the motion

177 REP. PARKS: To insert the (-1) amendments make the bill meaningless because all Oregon manufacturers transport them in sacks. If we pass the amendments we won't be helping the manufacturers in Oregon to compete evenly with producers from other areas.

190 REP. ROBERTS: For the last several years there has been a strong attempt from the federal government and down to deregulate the trucking industry. This would involve intrastate deregulation. I would oppose

the motion.

199 REP. BAKER: I support the motion to delete the (-1) amendments.

215 VOTE: IN A ROLL CALL VOTE MEMBERS VOTING AYE, REP. BAKER, REP. EDMUNSON, REP. HAYDEN, REP. MILNE, REP. NORRIS, REP. PARKS, REP. WYLIE. MEMBERS VOTING NO, REP. HOSTICKA AND REP. ROBERTS

222 MOTION: REP. PARKS MOVES THE ORIGINAL SB 567 TO THE FLOOR WITH A DO PASS RECOMMENDATION

230 VOTE: IN A ROLL CALL VOTE MEMBERS VOTING AYE, REP. BAKER, REP. EDMUNSON, REP. HAYDEN, REP. MILNE, REP. NORRIS, REP. PARKS, REP. WYLIE. MEMBERS VOTING NO, REP. HOSTICKA AND REP. ROBERTS

Rep. Parks will carry the bill.

WORK SESSION ON SB 769 Witnesses: Susan Schneider, City of Portland  
David Luhrwick, Police Officer, City of Gresham

242 JANET ADKINS, COMMITTEE ADMINISTRATOR: Reviews SB 769 and submits a Staff Measure Summary (EXHIBIT D), (-B6) amendments and hand-engrossed bill. (EXHIBIT E) > Authorizes Portland and Gresham to operate a photo radar demonstration pilot project on residential streets in residential and school zones > Citations can be issued based on the photo radar > Citations are to be mailed within six days of the violation > Project can only operate four hours a day in any one location > Equipment must be operated by a police officer in a marked patrol car > Signs must be posted before the radar location

> Vehicles actual speed must be displayed on a reader board within 150 feet of the radar equipment > Requires public education campaign and evaluation of the program > Photograph may only be used for the speeding citation > A one year pilot program under the bill Received a phone call from the Bridal Mile Neighborhood Association in support of the bill Automobile Club of Oregon is opposed to SB 769

298 REP. ROBERTS: Does the (-B6) amendments guard against a judge subpoenaing the photos?

303 JANET ADKINS: Only for the purpose of the citation.

306 REP. ROBERTS: If a crime is committed and they want to determine if someone was in the area at that time, they couldn't use it?

310 JANET ADKINS: That's the purpose of the amendment. I don't know if a judge can get around it.

314 REP. WYLIE: All we're asking is for people to go the speed limit. This bill has been watered down and I'm not sure how much good it will do anybody. I'm going to vote for this bill so I can use the technology and prove this isn't going to cause everybody to become residence of a fascist state.

364 REP. MILNE: Is there a distance the sign will be within 100 yards? If a citation is issued and the driver is not the owner of the vehicle, how is that handled.

390 REP. BAKER: In response to Rep. Roberts question about whether

we can use the photos for any other proceedings, my interpretation for the record is on the (-B6) amendments on subparagraph 4(b), this is a demonstration project only and my reading of that is the court can not subpoena under State law this record.

400 REP. ROBERTS: I want to make certain of that.

402 REP. BAKER: I know there's some concern, but I think it's difficult to categorize several thousands of photographs. This is a one year demonstration project for Gresham and Portland addressing specific neighborhood concerns. This bill will lapse after that time. At that point we'll have enough information available to come back next session and address this issue. This project is to help get information and slow people down in neighborhoods.

433 REP. EDMUNSON: Disturbed we deal with vehicles not people. > Drunk drivers, we forfeit vehicles > With this bill we are citing vehicles, not people. > Not going to support SB 769

TAPE 89, SIDE A

001 REP. PARKS: This has been demonstrated in California, Illinois, Arizona and New Jersey and have all abandoned it. They didn't like it.

> We don't normally have demonstration projects unless there's something that has been demonstrated before elsewhere. > The issue of not showing up > Send a note in stating you weren't driving the vehicle > That isn't in the bill > You would have to go to court and prove your innocence on a time you don't know what happened > Have a policeman in the neighborhood giving out tickets > Amendments state no judgement may be entered for failure to appear > This bill makes an exception to the public records law > Opposed to this bill

081 JANET ADKINS: (In response to Rep. Milne's questions) The bill requires signs to indicate the photo radar may be used on all major routes that enter the jurisdiction. If the driver was not the registered owner of the vehicle, the last page of the City of Portland's testimony points indicates if the registered owner is not the driver of the vehicle at the time of the violation, the owner may fill out a form that will be received with the ticket (Declaration of Innocence), they could also go to the agency that issued the citation to establish they were not the driver.

093 REP. EDMUNSON: Would it be part of the burden of proof that they establish who was the driver?

096 JANET ADKINS: I don't know.

REP. EDMUNSON: Could they say that wasn't me and that would be the end of it?

099 REP. ROBERTS: I'm not interested in handing out tickets, I'm interested in getting people slowed down in neighborhoods where children are playing. This would be in restricted areas where people shouldn't be speeding.

114 MOTION: REP. NORRIS MOVES THE (-B6) AMENDMENTS TO SB 769.

119 REP. EDMUNSON: What is the level of proof that a driver can send a note stating they weren't the driver of the vehicle?

124 REP. ROBERTS: How about the photo itself?

118 SUSAN SCHNEIDER, CITY OF PORTLAND: A ticket and Declaration of Innocence is sent to the owner of the register vehicle. The owner may return the Declaration of Innocence with a xerox copy of their driver's license that states they weren't driving the vehicle.

132 REP. EDMUNSON: What's the effect of filing the Declaration?

133 SCHNEIDER: The ticket will be dismissed.

REP. EDMUNSON: Without exception?

SCHNEIDER: Yes, they've sworn that.

135 REP. PARKS: Where does the bill say that?

136 SCHNEIDER: It doesn't say that in the bill. We offered to add that on the Senate side and they weren't interested in that, but we have put on the record that it would be done that way.

141 REP. EDMUNSON: The City of Gresham?

147 REP. PARKS: (To David Luhrwick) Are you authorized to have us put that in the bill on behalf of the City of Gresham?

148 DAVID LUHRWICK, POLICE OFFICER, CITY OF GRESHAM: Yes, we are in agreement with the City of Portland on this project. Our operating procedures would be the same as theirs.

152 REP. PARKS: I would like to make a conceptual amendment to include that.

159 REP. MILNE: Is there a reason this can't be a demonstration project without it being law?

162 REP. NORRIS: That question was raised in subcommittee but they were uncertain about the authority to do this.

168 REP. MILNE: Is there any reason a demonstration project for a limited amount of time cannot be done without us making it a law?

171 SCHNEIDER: The opinion of the City Attorney's Office is because the State has acted in statute how citations are hand delivered, the State has occupied the field on that particular subject and it is unclear whether a citation can be mailed and statutory permission was needed.

190 JANET ADKINS: There was a question on the (-B6) amendments about the entry of judgement for failure to appear, the amendments do delete lines 22, 23, 31 and 32 of the bill where those are referenced.

204 VOTE: WITHOUT OBJECTION, MOTION CARRIES.

205 MOTION: REP. PARKS CONCEPTUALLY MOVES THAT A DRIVER BE ALLOWED TO FILE A STATEMENT OF INNOCENCE AND THE TICKET WILL BE DISMISSED UPON RECEIPT WITHOUT APPEAL

214 REP. HOSTICKA: If a person swears in a statement of innocence, is

that person subject to the penalties for false swearing?

217 REP. EDMUNSON: Not under this amendment. That's my provision, that either it not be just the entry into the legal thicket, but it be an absolute you're out. They can keep statistics and bring them back and if they can demonstrate that's a problem, if this ever becomes a statewide law then we have something to go on.

223 REP. BAKER: Also the photograph could be used and that's the proof. You could never prove that somebody in fact was never the driver or was the driver.

234 JANET ADKINS: The conceptual amendment is "that the language about the driver being able to submit declaration of innocence to the citing jurisdiction with a copy of their driver's license

238 REP. PARKS: Any jurisdiction participating in the demonstration project shall be required in addition to the citation to provide the registered owner with a statement entitled Declaration of Innocence which may be filled out by the driver attesting that he was not the operator of the motor vehicle at the time and place designated in the citation. Such statement when filed with the court of jurisdiction of the demonstration city shall be conclusive evidence of his innocence and no further proceedings will be had on the citation nor may it form the basis for any other criminal prosecution.

254 REP. HOSTICKA: Objects to the conceptual amendment.

256 VOTE: IN A ROLL CALL VOTE MEMBERS VOTING AYE, REP. BAKER, REP. EDMUNSON, REP. HAYDEN, REP. NORRIS, REP. PARKS, REP. ROBERTS AND REP. WYLIE. MEMBERS VOTING NO, REP. MILNE AND REP. HOSTICKA

264 CHAIR HAYDEN: Speaker has excused members unless there is a call of the House. Members are excused.

275 MOTION: REP. BAKER MOVES SB 769 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION

280 VOTE: IN A ROLL CALL VOTE MEMBERS VOTING AYE, REP. BAKER, REP. HOSTICKA, REP. NORRIS, REP. ROBERTS AND REP. WYLIE. MEMBERS VOTING NO, REP. EDMUNSON, REP. HAYDEN, REP. MILNE AND REP. PARKS

Rep. Baker and Rep. Wylie will carry the bill.

295 Rep. Roberts gives notice of a Minority Report on SB 567.

WORK SESSION ON SB 259 Witnesses: Sen. Joan Dukes, District 1

Staff Measure Summary (EXHIBIT F)

312 SEN. JOAN DUKES, DISTRICT 1: Will answer any questions.

320 REP. ROBERTS: Were there problems with the river pilots or the bar pilots?

323 SEN. DUKES: It depends upon what part you were talking about.

REP. ROBERTS: Are they on the bill now?

324 SEN. DUKES: Everyone has agreed to the (-A12 amendments).

330 REP. NORRIS: I notice in the ODOT budget bill 5027 there was a budget note added on the last page that says the Board of Maritime Pilots shall report to the appropriate committee and the Legislative Emergency Board on its efforts to expand recruitment, training, licensing and employment of minority and women pilots on all pilotage ground within Oregon. In light of those budgets carrying a certain amount of influence with the agencies responsible, do we need SB 259?

343 SEN. DUKES: Absolutely. Because we have had great difficulty in getting the board to agree to put out an affirmative action plan, this brings them fully under the Department of Transportation so they will have access to those staff in their own budget. We have suspended the second year of their budget pending a report to the Emergency Board on their progress in developing an affirmative action plan and SB 259 gives them the resources from ODOT and the Governor's office on affirmative action in helping them to develop that plan.

367 REP. NORRIS: Must base their hiring programs on the affirmative action plan, what about the other qualifications? What about the consideration of safety?

371 SEN. DUKES: Those are all parts of it. We know they will include those. Those are all still in the law and very important. They have repeatedly ignored affirmative action in putting together their rules.

389 MOTION: REP. EDMUNSON MOVES THE (-A12) AMENDMENTS TO SB 259

398 VOTE: WITHOUT OBJECTION, MOTION CARRIES

399 MOTION: REP. EDMUNSON MOVES SB 259 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION

405 VOTE: IN A ROLL CALL VOTE ALL MEMBERS PRESENT VOTING AYE. MEMBERS EXCUSED, REP. PARKS AND REP. WYLIE

Rep. Parks will carry the bill.

WORK SESSION ON SB 1084 Witnesses: Joan Plank, Division of Motor Vehicles (DMV) Randy Fraser, DMV Hearings, Department of Transportation

424 JANET ADKINS, COMMITTEE ADMINISTRATOR: Reviews SB 1084 and submits Staff Measure Summary. (EXHIBIT G) > Suspension takes effect 30 days after violation > Within that time have a right to a hearing at DMV > If officers are unable to attend hearing, the hearing cannot be rescheduled and the driver's suspension will never go into effect > The hearing can currently be rescheduled if the driver cannot attend the hearing > This bill would allow the hearing to be rescheduled if for official duty circumstances the officer cannot attend > Gives one follow-up opportunity to reschedule

467 REP. EDMUNSON: How many extensions are allowed?

468 JANET ADKINS: My understanding it is just one.

473 CHAIR HAYDEN: Page 3, line 23 says an officer will be a

subpoenaed officer, do these excuses only apply to those who have been subpoenaed?

482 JANET ADKINS: Yes, but I think a subpoena is routine.

485 CHAIR HAYDEN: They always appear under subpoena.

TAPE 88, SIDE B

488 REP. EDMUNSON: This is an administrative hearing, not a trial. The concept of a speedy trial is important to me and I have a problem with police delaying a citizen's right to be heard. These laws are not designed to benefit the police, but benefit the motorist. If this can be done more than once, I am opposed.

044 JOAN PLANK, DIVISION OF MOTOR VEHICLES (DMV): The bill is silent to whether it would be more than once, but we

049 REP. EDMUNSON: You don't have a problem with one reschedule.

050 PLANK: We believe we could do that by rule. > Suspension is rescinded if the officer can't come to the hearing

054 JANET ADKINS: Would the rescheduling have to be within the 30 days? Their suspension wouldn't take effect until the hearing was scheduled and determined and their license is not suspended during this time of the rescheduling.

058 PLANK: Right and that's in the bill.

059 MOTION: REP. EDMUNSON MOVES AN AMENDMENT TO THE BILL TO PROVIDE FOR MAXIMUM ONE RESCHEDULING

063 REP. EDMUNSON: My understanding that the license is not suspended until the hearing so the motorist is protected during the period of delay.

065 REP. HOSTICKA: Does that apply to rescheduling by both parties?

067 JANET ADKINS: Page 3, line 34 says schedule a subsequent hearing. I'm assuming one hearing for driver also.

069 REP. HOSTICKA: The driver can only request one rescheduling also?

070 JANET ADKINS: I don't know how they're doing that by rule.

072 REP. EDMUNSON: My amendment goes to rescheduling that is beyond the control of the driver because the hearing is for the benefit of the driver. I want to give the officers the opportunity for one delay for official duty conflicts.

084 CHAIR HAYDEN: Can I get excused six times due to family illness?

087 RANDY FRASER, DMV HEARINGS, DEPARTMENT OF TRANSPORTATION: The present law would allow if you can demonstrate it was beyond your control and unforeseen, the law doesn't specify a limitation of number of times you could petition to have the hearing reset as the motorist.

092 CHAIR HAYDEN: (To Rep. Hosticka) I would oppose your concept that the accused have only one.



093 REP. HOSTICKA: My concept is it be parallel.

100 REP. EDMUNSON: There is no equality. The agencies of the State are bringing an action in complied consent on a motorist who may or may not have offended the driving statute. They are being subject to an automatic suspension, no questions asked.

137 CHAIR HAYDEN: My perception of Rep. Edmunson's amendment is the State can reschedule one time and the law does not change for the accused citizen and in a bona fide emergency they may reschedule an unlimited number of times.

VOTE: NO OBJECTION, MOTION CARRIES

MOTION: REP. EDMUNSON MOVES SB 1084 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION

VOTE: IN A ROLL CALL VOTE ALL MEMBERS PRESENT VOTING AYE. MEMBERS EXCUSED REP. MILNE AND REP. PARKS

Rep. Edmunson will carry the bill.

156 REP. ROBERTS: Rep. Hosticka will join me on the Minority Report on SB 567.

Meeting adjourned.

Submitted by:

Reviewed by:

Priscilla Boyle  
Administrator

Janet Adkins Assistant

EXHIBIT LOG:

A - Letter on SB 7 - Jane Ard - 1 page B - News article on SB 7 - Staff - 1 page C - Opinion Reports on SB 7 - Staff - 2 pages D - Staff Measure Summary on SB 769 - Staff - 1 page E - Amendments and hand-engrossed bill on SB 769 - Staff - 4 pages F - Staff Measure Summary on SB 259 - Staff - 1 page G - Staff Measure Summary on SB 1084 - Staff - 1 page