

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Government

April 6, 1993 Hearing Room 357 8:30 a.m. Tapes 47 - 49

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Jim Edmunson Rep. Cedric
Hayden Rep. Patti Milne Rep. Sharon Wylie

VISITING MEMBER: Rep. Ken Baker

STAFF PRESENT: Janet Adkins, Committee Administrator Amy
Jahnke, Committee Assistant

MEASURES CONSIDERED: HB 2490 HB 3002 HB 2949 HB 2954 HB 3072 HB
3061 HB 2462

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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
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TAPE 47, SIDE A

CHAIR PARKS: Calls meeting to order. (8:35 a.m.)

PUBLIC HEARING HB 2490

Chair Parks: Referral to the house commerce committee because there are
three other bills dealing with the issue of allowing private bodies to

work upon public projects and the bidding prospect.

016 Rep. Wylie: At least one person made the case that this was an
issue of local control and flexibility for local government; do the
other bills

relate to that as much as this one?

Chair Parks: I don't know.

HEARING NO OBJECTION HB 2490 IS RE-REFERRED TO THE
FULL COMMITTEE FOR DISCUSSION.

PUBLIC HEARING HB 2954 Witnesses: Rep. Markham, District 46 Bill
Cross, Willamette Valley Vineyards Jim Bernau, Willamette Valley
Vineyards Paul Romain, Attorney, Beer and Wine
Distributors Association Barbara Pelett, OLCC

030 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2954.

056 REP. MARKHAM, DISTRICT 46: Testifies in support of HB 2954.

086 BILL CROSS, WILLAMETTE VALLEY VINEYARDS: Testifies in support

of HB 2954; submits (-2) amendments and fiscal impact statement (EXHIBIT A).

098 Chair Parks: Is the big brewery Blitz Weinhardt?

Cross: That is correct.

106 Chair Parks: Can you go buy stuff at Blitz Weinhardt?

Cross: No.

Chair Parks: So that doesn't affect them even if it did not have the quantitative limitation?

Cross: No.

Chair Parks: I'm not familiar with how many there are but this one Salem on Liberty.

Cross: I'm assuming they have a public brew pub license; the brew pubs are allowed to brew on their premises and sell their beer and other beer and wine on their premises.

113 Chair Parks: Who would this affect? What brewery?

Cross: There are three small breweries currently; Widmers in Portland, Liberty brewery in Lake Oswego and Willamette Valley Brewing Company which is not operational but has a brewery license in Portland but is not in production yet.

122 Janet Adkins: Is there another section of law that you can point to that says this wouldn't apply to the large brewery?

Cross: The amendment would only apply to sub section 2 of ORS 471 .220.

132 JIM BERNAU, WILLAMETTE VALLEY VINEYARDS: Testifies in support of HB 2954.

146 Chair Parks: Do you brew beer also?

Bernau: We are not in operation yet. We have just capitalized ourselves by raising over \$2 million through a public common stock offering this past month and have obtained a small brewery license.

185 BARBARA PELETT, OLCC: Testifies as being neutral on HB 2954.

200 BILL NELSON, OREGON WINE GROWERS ASSOCIATION: Have no position on HB 2954.

Chair Parks: Ms. Pelett, what do you think of the amendment?

Pelett: CAN NOT HEAR HER ON TAPE

214 PAUL ROMAIN, ATTORNEY, BEER AND WINE DISTRIBUTORS ASSOCIATION:

Testifies in opposition to HB 2954.

293 Chair Parks: What public good comes from making all these distinctions?

Romain: Originally when these laws were passed, they were designed to ensure that we didn't get into a situation to cause prohibition in the first place.

330 Chair Parks: This may be unfair but, what you want us to do is to kind of continue to legitimize a semi monopoly or some kind of restricted act as to the market because the people you represent have made financial

decisions based upon that access not expanding.

Romain: None of my members can own an interest, we can't even loan money to a retailer. So if we wanted to get in the business of a brew pub or a tavern, we can't. We are restricted too. These laws don't just benefit us; we can't be a restaurant. The system has been set and it has worked well; he who forgets history is condemned to repeat it.

380 Nelson: If there is an amendment that suggests the removal of the wineries ability to wholesale, I would oppose that; there is a need to

maintain a competitive environment.

423 Chair Parks: You are not talking about number two?

Nelson: No. I believe the last witness was suggesting that if you are going to make some changes here you might consider removing the winery's ability to wholesale and I am speaking to that suggestion as one I vigorously oppose.

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013 Chair Parks: Amendments that have not been submitted according to the rules will not be considered.

WORK SESSION HB 2954

REP. EDMUNSON MOVES THE (-2) AMENDMENTS TO HB 2954.

HEARING NO OBJECTION THE MOTION CARRIES.

REP. EDMUNSON MOVES HB 2954 TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

IN A ROLL CALL VOTE THE MOTION CARRIES.

PUBLIC HEARING HB 3061 Witnesses: Mike McCallum, Director of

Government Relations, Oregon Restaurant Association

047 Janet Adkins: Describes HB 3061; submits fiscal impact statement (EXHIBIT B).

065 MIKE MCCALLUM, DIRECTOR OF GOVERNMENT RELATIONS, OREGON RESTAURANT ASSOCIATION: Testifies in support, submits written testimony (EXHIBIT C).

114 Chair Parks: This bill would then say that the full price; if what I pay as an individual is 100% then you would pay 95% of what I am paying?

McCallum: That is correct.

Chair Parks: What is the rationale when you control the market, why do you give somebody a discount?

McCallum: I think that states around the nation have recognized a significant cost savings to the commission when they are selling to a bulk buyer.

125 Janet Adkins: In your testimony you said that it would probably go up to the 5% even if the rebate program is kept partially because of the

federal tax; how does federal tax affect what comes into the state in the general fund?

McCallum: The sales projection would be affected by the increase in the federal excise tax.

Janet Adkins: Federal taxes included in that projection?

141 McCallum: That is correct. The total amount of the price is included in the sales projection; we don't call them taxes in Oregon when we talk about hard alcohol, we call it a price mark-up.

WORK SESSION HB 3061

REP. MILNE MOVES HB 3061 TO THE FULL COMMITTEE WITH A RECOMMENDATION THAT IT BE REFERRED TO THE HOUSE COMMITTEE ON APPROPRIATIONS.

IN A ROLL CALL VOTE THE MOTION CARRIES.

WORK SESSION HB 3002 Witnesses: Barbara Pelett, OLCC Mike Green, Assistant Administrator, OLCC

REP. EDMUNSON MOVES THE (-1) AMENDMENTS TO HB 3002.

177 Rep. Edmunson: Speaks on (-1) amendments.

HEARING NO OBJECTION THE MOTION CARRIES.

REP. EDMUNSON MOVES HB 3002 TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

Rep. Baker: Is there anywhere else that you are aware of where we have

individuals less than 21 years of age serving/selling beer or wine?

205 Rep. Edmunson: In food establishments.

Rep. Baker: Can waitress at a Sizzlers restaurant?

Rep. Edmunson: Yes, if food is served. But in the newer public golf courses they use large cooler with micro waves and pre-prepared/pre-package food and they have not thus far been treated as having a food service. If it were a package store like a 7-11 or if the club house were an independent concession then 18, 19, 20 year olds could work there.

Rep. Baker: But currently now you can have a 18 or 19 year old waitress at a Sizzler restaurant that if you ordered a beer she would serve the beer to you or give to you across the counter?

Rep. Edmunson: That is correct. However they do not mix drinks and they also must have alcohol server training and supervision.

221 Janet Adkins: What is the requirement for server education under your amendment?

Rep. Edmunson: It is the same as for everyone else.

225 Rep. Hayden: Would like some emphasis that these people will go through the course.

230 BARBARA PELETT, OLCC: Server education is wise; the law which created server education has certain specific licenses named in it, we would need to add this retail malt beverage designation to that law for us to require employees to take server education.

Rep. Edmunson: If this is not included, I want it included. I was under the impression that it was included.

240 MIKE REED, ASSISTANT ADMINISTRATOR, LIQUOR COMMISSION (OLCC): The server education requirement does apply to businesses that have a retail malt beverage license, so these servers would be required without any further amendment.

Rep. Hayden: I have no objection to the amendment if you are covering that aspect legislatively and if not legislatively if it would be done administratively.

Green: The statute requires any person who serves for on premises consumption to have a servers permit and there is nothing in this amendment that exempt these young servers from that requirement so they would be required to have a servers permit and they couldn't get it until they had server education.

IN A ROLL CALL VOTE THE MOTION CARRIES.

PUBLIC HEARING HB 3072 Witnesses: Mike McCallum, Oregon
Restaurant Association Mike McMenamin, Mcmenamin Brew Pubs

352 Janet Adkins, Committee Administrator: Describes HB 3072; submits
fiscal impact statement (EXHIBIT D).

370 MIKE MCCALLUM, OREGON RESTAURANT ASSOCIATION: Testifies in
support of HB 3072.

385 MIKE MCMENAMIN, MCMENAMIN BREW PUBS: Testifies in support of HB
3072; submits written testimony (EXHIBIT E).

450 Rep. Edmunson: There is an independent micro brew pub in Eugene
called the Stealhead brewery, minors don't go in, but in some brew pubs
minors can go in. Is that at the discretion of the owner or manager or
is that because of the brewery public house license distinction?

433 McMenamin: The brewery public house license allows minors.

Rep. Edmunson: What about a brewery; does a brewery license allow that?

McMenamin: We don't have a brewery license and I'm not sure; I would
think that minors would be allowed. We have a place in Eugene and
minors are welcome.

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016 Chair Parks: Do you have a place in Salem?

McMenamin: Yes, the Thompson Brewery and public house on Liberty.

028 Rep. Wylie: There is an establishment in my district that saved a
major historic site and is a great place for children and has a good
selection of non-alcohol beverages as well.

040 Chair Parks: Any other commercials?

PUBLIC HEARING HB 2462 Witnesses: Rep. Burton, District 17 John
Lanoette, Administrator, Calaroga Terrace Dorothy Sandvig,
Resident Mike Reed, OLCC Barbara Pelett, OLCC

040 Janet Adkins, Committee Administrator: Describes HB 2462

057 REP. BURTON, DISTRICT 17: Testifies in support of HB 2462.

084 JOHN LANOETTE, ADMINISTRATOR, CALAROGA TERRACE: Testifies in
support of HB 2462.

098 DOROTHY SANDVIG, RESIDENT: Testifies in support of HB 2462.

109 Chair Parks: Why didn't you just go get the license?

Lanoette: The prior administration felt it was a principal issue.

Rep. Burton: The feeling of the people is; the point is they are not

selling liquor they are simply consuming it as if it was there own home
- which it is.

138 Rep. Edmunson: They are not selling - the bill says that you could
sell wine or beer by the drink.

Rep. Burton: Refers to section 3 - no intent to sell.

Rep. Wylie: Is it possible that certain facilities it might be sort of
a policy decision to not charge everybody for it but only those who
drink it; having the word sale in the bill would then make sense and
just allow a proper allocation of costs?

168 Rep. Burton:

Lanoette: It is part of a meal program, champagne brunch, etc. We are
not interested in selling liquor or alcohol to people, it is the idea
that it should be part of their daily accommodations.

181 Rep. Hayden: Concerned about economics.

Rep. Baker: How difficult is it to get a license?

Rep. Burton: Do not have procedure for getting license; it is a
multi-phase step.

211 Rep. Baker: You are affectively saying you don't need a license
but you are in a licensing process.

Rep. Burton: What is the purpose for a licensing fee to serve beer or
wine.

250 MIKE REED, OLCC: Submits written testimony (EXHIBIT F).

260 Rep. Edmunson: I understand the licensing of care/retirement
facilities dangerous conditions and unhealthy conditions are principally
addressed by that license.

Reed: That is why the commission is neutral on HB 2462.

271 Rep. Edmunson: Would you agree that the language need not be so
broad?

Reed: Technically that is correct; refers to lines 7, 8, 9, 11, 12 and
14 - delete the word "sale" and just leave "serve".

Rep. Hayden: Would this then transfer the oversight of alcohol
consumption from the OLCC to the senior services division and to the
ombudsman.

299 Rep. Edmunson: It probably would be now if it were constituting an unhealthy situation.

Rep. Hayden: Would one state agency be taking over for another agency?

Rep. Edmunson: There is sort of an inherent overlap in these community living facilities with state agencies

Rep. Hayden: Can the officials respond to that; would that be a delegation of their duty?

315 Reed: This bill would not completely remove the OLCC's jurisdiction to respond to complaints of selling to minors or selling to intoxicated

customers. All law enforcement agencies have the control.

Rep. Baker: On this health care facility license, is that routinely granted?

329 BARBARA PELETT, OLCC: Yes, that is true.

Rep. Hayden: Is the page one time for life or once a year?

Pelett: This page is one time for life; there is a small amount of paperwork on a single page that we do each year for the renewal of the license.

Close Public Hearing on HB 2462

PUBLIC HEARING HB 3072 Witnesses: Barbara Pelett, OLCC

355 BARBARA PELETT, OLCC: We would also need to put companion language in the winery privilege license.

369 Chair Parks: We will move that at the appropriate time and see if there is objection.

WORK SESSION HB 3072

382 Janet Adkins: Describes HB 3072, submits amendments (EXHIBIT G).

REP. MILNE MOVES THE CONCEPTUAL AMENDMENTS BE ADOPTED TO HB 3072.

HEARING NO OBJECTION THE MOTION CARRIES.

REP. WYLIE MOVES HB 3072 TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

IN A ROLL CALL VOTE THE MOTION CARRIES.

PUBLIC HEARING HB 2949 Witnesses: Mike McCallum, Oregon Restaurant Association Tom Mcdonald, Manager, Arena Sales Debra Jarvis

Jill Copeland

439 Janet Adkins: Describes HB 2949; submits (-1) and (-2) proposed amendments (EXHIBIT H).

TAPE 48, SIDE B

005 MIKE MCCALLUM, OREGON RESTAURANT ASSOCIATION: Testifies in support of HB 2949.

011 DAVID KNOLLS, ATTORNEY, OREGON ARENA CORPORATION: Testifies in support of HB 2949.

020 TOM MCDONALD, MANAGER, ARENA SALES: Testifies in support of HB 2949; submits informative material (EXHIBIT I).

070 Knolls: Continues testimony.

Chair Parks: So there would 70 x 16 that would be the most people that could be in there at one time?

077 Knolls: The max will be 18, however 16 people can be seated at one time viewing the event.

Chair Parks: Do these folks also buy a ticket?

085 Knolls: No tickets for all events are included in annual fee.

089 McCallum: Gives further testimony.

109 Chair Parks: What does that mean "through their manager?"

McCallum: What we are anticipating is that the servers themselves may not have the ability to physically carry out cutting off alcohol, but by calling their manager they would have the ability to cut off alcohol in the suites.

Chair Parks: Wouldn't a bartender in a restaurant have the ability to do that and if he didn't do that he could lose his own personal license?

117 McCallum: That is correct. My point is that there will be back up to the server to ensure problems are handle quickly.

Chair Parks: Will customers be able to mix own drinks?

McCallum: It would be the same as hotel mini-bars.

132 Chair Parks: Would they mix own drink?

McCallum: Correct; breaking new ground in Oregon, not a novel idea in other parts of the country.

180 Chair Parks: This bill really makes me uncomfortable.

196 Rep. Hayden: What liability will the Trail blazers and the owners of the arena have for any riot or traffic deaths that would occur as the

result of excess alcohol consumption?

McCallum: ORS 030.950; requires all licensees and all suite holders have insurance policies to make it clear they have an obligation to control their premises; that is part of the lease agreement.

Rep. Hayden: In the event of accident would the Oregon Arena Corporation seek to draw a legal shield between them and a law suit or would they address the law suit on its merits?

220 McCallum: Cannot address what they will do in specific circumstance; statute controls liability.

Rep. Hayden: Will there be self service liquor at family shows and circuses?

Knolls: We are sensitive to and in contact with other operations; higher ratio of staff than any other operation.

273 Rep. Hayden: Policing - in some situations it is possible to get temporary permit and that the servers don't have to go through the OLCC server training course; would all your staff have been through the OLCC training course?

282 McCallum: The servers at the Oregon Arena will adhere to any OLCC rules. 294 Chair Parks: What procedure do they use in Salt Lake City?

McCallum: Alcohol is available in the suites; in Salt Lake City there is one person to every five suites in terms of handling food and beverage service.

306 Rep. Edmunson: Refers to section 950 of chapter 30; my concern is that management will stock the little bottles; it would be hard to control

the dispensing of liquor?

337 McCallum: There clearly would be an argument; I don't think it is entirely clear that the Oregon Arena Corporation gets off the hook.

355 Chair Parks: If you have indemnification agreement, they are going to be totally indemnified against any possible type of consequences; what

is the true incentive of management?

374 McCallum: They would have concern because they can loose their license; guard license.

Rep. Edmunson: If a suite gets out of control, the arena could loose their license?

McCallum: That is correct.

Rep. Edmunson: We could just write that into the law here that the arena would automatically loose their license if a suite got out of control?

McCallum: We might want to talk about that.

409 Rep. Milne: Is there a limit on how much alcohol is stocked?

McCallum: In the hotel context that is established by OLCC regulation.

431 Rep. Milne: What if I want to bring my own supply?

McCallum: OLCC prohibits that as well as the lease agreement prohibits that.

023 Rep. Milne: What about the sale of alcohol to the other patrons, those who are there outside the suite?

McCallum: There will be two restaurants, two lounges and concession areas and they will be serving food and alcoholic beverages.

TAPE 49, SIDE A

Rep. Milne: Whether I am in a suite or I am a separate patron, is there a difference in control of consumption of alcohol?

032 McCallum: There is not; there will be very adequate control in both situations.

041 Knolls: The suites are on separate concourse of building; need to have a pass which means no spill-over; enclosed area in terms of control.

049 Rep. Milne: If patron is cut off from suite drinking could they go to restaurant in arena etc.?

058 McCallum: Yes, that could happen.

Rep. Wylie: You mentioned there is a management co. separate from the Blazers, and the name of that company is?

069 McCallum: The Oregon Arena Corporation and it is a separate corporation than the Blazers, both owned by Paul Allen.

Rep. Wylie: Will the suite attendants be permanent full time employees or contract employees or what kind of arrangement will there be to ensure continuity of people who know the policies and the program and

have had the training and know how they are supposed to behave?

McDonald: There will only be one private contractor in this building.

082 Rep. Wylie: Will they be the actual employer of the attendants?

McDonald: Yes, that is correct.

Knolls: Oregon Arena Corporation and the private contractor will both be OLCC licensed.

093 Rep. Wylie: You stress luxurious personal service element of owning a suite. Will the people providing those services be working for tips?

Knolls: No. They will be hourly wage people; that has not been fully

discussed at this point. 102 Chair Parks: I want to get to the other witnesses.

108 DEBRA JARVIS: Testifies in opposition, submits written testimony (EXHIBIT J).

215 JILL COPELAND: Testifies in opposition, submits written testimony (EXHIBIT K).

240 Chair Parks: If the committee were to require that this not be a self serve facility, would you need this bill?

249 McCallum: No, it would not be needed.

Chair Parks: We will return to this bill in the future.

We are adjourned 11:10 am

Submitted by, Reviewed by,

Timothy Marshall Janet Adkins Committee Clerk Committee Administrator

Exhibit Summary:

A - HB 2954: (-2) amendments submitted by staff, pp 2 B - HB 3061: Fiscal impact statement submitted by staff, pp 4 C - HB 3061: Written testimony submitted by McCallum, pp 4 D - HB 3072: Fiscal impact statement submitted by staff, pp 7 E - HB 3072: Written testimony submitted by McMenamin, pp 7 F - HB 2462: Written testimony submitted by Reed, pp 9 G - HB 3072: Proposed amendments submitted by staff, pp 10 H - HB 2949: (-1) and (-2) proposed amendments submitted by staff, pp 10 I - HB 2949: Informative material submitted by McDonald, pp 10 J - HB 2949: Written testimony submitted by Jarvis, pp 14 K - HB 2949: Written testimony submitted by Copeland, pp 14 L - HB 2949: Written testimony submitted by Daly, not mentioned in minutes M - HB 2490: Fiscal impact statement submitted by staff, not mentioned in minutes N - HB 3002: (-1) Proposed amendments submitted by staff, not mentioned in minutes