

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Transportation

July 15, 1993 Hearing Room 357 10:00 a.m. Tapes 68 - 69

MEMBERS PRESENT: Rep. Chuck Norris, Chair Rep. Ken Baker Rep. Cedric Hayden, ex-officio Rep. Carl Hosticka Rep. Lonnie Roberts

STAFF PRESENT: Janet Adkins, Committee Administrator Julie Dow, Committee Researcher Karen Cormac-Jones, Committee Clerk

MEASURES CONSIDERED: SB 1105 A-Engrossed SB 769 B-Engrossed SB 594 SB 486 A-Engrossed SB 1084 A-Engrossed

WITNESSES: RANDY FRASER, Hearings Officer, Motor Vehicles Division REP. BILL MARKHAM KATE DEANE, Intergovernmental Program Coordinator,

Portland Office of Transportation SUSAN SCHNEIDER, City of Portland LINDA MENG, Portland City Attorney's Office ANNE O'RYAN, Public Affairs Manager, AAA of Oregon SCOTT THOMPSON, Traffic Safety Manager, AAA of Oregon DEBBI GATHWRIGHT, Citizen DEAN BANKS, Citizen PAUL DENUE, Citizen MARK SHROYER, Citizen BEVERLY BETTIS, Chair, Government Relations Committee, Oregon Multiple Sclerosis Society REP. JOHN SCHOON REP. MARY ALICE FORD LORRAINE POWELL, Member, Ladies Auxiliary to the

Veterans of Foreign Wars SEN BOB KINTIGH LAUREL WHITEHURST, Legislative Aide to Sen. Frank

Roberts

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

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 ---]

STAN ROBSON, Chief Criminal Deputy, Benton County Sheriff's Department; Oregon State Sheriff's Association

BILL JOHNSON, Lieutenant Patrol Division, Department of State Police BILL CROSS, Oregon Association of Chiefs of Police

TAPE 68, SIDE A

007 CHAIR NORRIS: Calls the hearing to order at 11:47 a.m. Warns witnesses to limit their testimony to ten minutes due to time constraints.

021 OPENS WORK SESSION ON SB 1105 A-ENGROSSED

026 RANDY FRASER, Hearings Officer, Motor Vehicles Division: Presents written testimony (EXHIBIT A) in support of SB 1105.

053 REP. BAKER: So the people who will be affected by this bill have already been through a due process before the court, and based upon that, you will take administrative action?

059 FRASER: Yes.

061 MOTION: REP. BAKER: Moves SB 1105 to the FULL COMMITTEE with a DO PASS RECOMMENDATION.

064 CHAIR NORRIS: Restates motion and calls for discussion.

VOTE: REPS. BAKER, HAYDEN, HOSTICKA, ROBERTS and CHAIR NORRIS vote AYE.

072 CHAIR NORRIS: The motion CARRIES.

Addition to the record: SB 1105 A-Engrossed Staff Measure Summary (EXHIBIT B)

074 CLOSES WORK SESSION ON SB 1105 A-ENGROSSED

076 OPENS PUBLIC HEARING ON SB 769 B-ENGROSSED

077 JANET ADKINS, Committee Administrator: Senate Bill 769 is the photo radar bill, which would authorize a pilot program in the cities of Gresham and Portland. This program would allow the issuance of a traffic ticket after a photo radar picture is taken of a speeding vehicle. There are a number of posting restrictions, restrictions on the amount of time a local jurisdiction has to send out the tickets, and the ability for the driver to say they were not driving the car at the time.

Distributes testimony from Carolyn Bolme, Clarice White, Ellie Bellville, Mark Koberstein et. al with the Alliance for Community Traffic Safety, and a signed "Photo Radar Petition" in support of SB 769, as well as a "Fact Sheet" regarding photo radar from the City of Portland (EXHIBIT C). 084 REP. BILL MARKHAM: Testifies in favor of SB 769. The inception of this bill began over three years ago when I was reviewing the damage that Measure 5 would do to police and sheriff departments. After researching photo radar in other areas of the country, I discovered that it is much more effective and efficient than traditional methods.

098 KATE DEANE, Intergovernmental Program Coordinator, Portland Office of Transportation: Presents written testimony (EXHIBIT D) in support of SB 769. The cities of Portland and Gresham have requested SB 769 to help them better respond to citizen complaints about speeding. Describes what will occur with the implementation of pilot project.

185 REP. HOSTICKA: Does the bill or do the laws allow these photographs to be admissible for any other purpose?

187 DEANE: It's not in the bill. For citations which are dismissed, the photographs will be destroyed. For citations which go to court, the photographs will be kept for the statutory period of one year.

199 REP. HOSTICKA: If a picture is taken of a person drinking from a can of beer, could that person be prosecuted for driving with an open container?

202 DEANE: No. We won't use the photographs for that purpose.

203 REP. HOSTICKA: Is that your promise, or will this be a legal protection?

204 DEANE: It's not in the bill. That's my promise to you.

205 REP. HOSTICKA: I don't know if that's good enough.

195 SUSAN SCHNEIDER, City of Portland: This is designed to be a test project. As a part of the test, we will be setting up a series of

policies, and that will be one of those policies. If the project goes forward, it will become a part of the law.

212 REP. HOSTICKA: I don't see why we couldn't put it in the bill right now.

213 SCHNEIDER: Sure.

215 REP. BAKER: On the second page of the bill on Line 22, it states that if you fail to respond to the citation within 30 days, you're allowing the court to enter a citation for "failure to appear," which is a criminal offense. Normally, before that is done, we personally hand the citation to the individual, and we're not doing that with this project. Would it hurt the project if we eliminated the ability to cite for "failure to appear"? I have some constitutional problems with this.

227 LINDA MENG, Portland City Attorney's Office: The citation for "failure to appear" is not a criminal citation, but is a judgment that goes to the Motor Vehicles Division, which only says that you failed to appear on a citation. It's not a citation of a criminal charge for "failure to appear" on a warrant.

233 REP. BAKER: Can we make sure that is better clarified in the bill?

234 MENG: Yes. These will be handled like any other speeding ticket, which does not become criminal for failing to appear.

235 REP. PARKS: How much will the photo radar company be paid for this service?

243 DEANE: The company will charge \$20 per citation. That covers the lease of the equipment and the citation processing costs.

247 REP. PARKS: So the company has a financial interest in the number of citations which are issued?

249 DEANE: I suppose that is correct.

251 REP. PARKS: Suppose a picture was taken of me driving with a woman who was not my wife. That photograph would be a public record, wouldn't it?

259 DEANE: Yes, if your citation went forward.

262 REP. PARKS: How would I be able to prove the machine wasn't working correctly?

267 MENG: You would have the same opportunities that you currently have when you are stopped for speeding from radar. You would have the ability to review the records for when the machine was last checked, etc.

273 REP. PARKS: Did I see you in Portland a week ago Wednesday?

275 MENG: I don't recall.

276 REP. PARKS: My point is that when you currently receive a citation, it's for something you did five minutes ago. If it's for something you did last week, you don't have the same protections.

285 MENG: Protections have been built into this bill to address that. We would require that a reader board be designed to have a large display to show motorists what their speed was, so it is brought to their attention.

290 REP. PARKS: How is it brought to their attention that they even went through the screening area?

292 DEANE: The reader board will be displayed, and will state something like, "Photo radar in use. Your speed was___" The reader board needs to be within 150 feet of the vehicle to insure there is a connection in the mind of the driver between an offense and a citation which arrives in the mail up to six business days later.

302 REP. PARKS: How is radar currently checked? If I contested my ticket, would a technician be available to prove the accuracy of the test?

309 DEANE: Yes.

310 REP. PARKS: Is that in the bill?

311 DEANE: No.

316 REP. PARKS: Where has this machine been used before where its use has been discontinued?

321 DEANE: I know it is no longer being used in some cities. The main reason for the discontinuation is that there was not sufficient public education before the technology was implemented. There was some use of photo radar in unmarked vehicles, which was thought to be "sneaky."

337 REP. PARKS: Is that another way of saying that the people in these communities thought this was a "gestapo" method of catching speeders?

340 DEANE: Perhaps. However, in many jurisdictions, the use of photo radar has been continued.

343 REP. PARKS: If I get a ticket, do I have to physically go to court to prove it wasn't me who was driving?

346 DEANE: That's wouldn't be necessary. We will send a form with your citation on which you can state that you were not the driver of that vehicle. You would also need to include a photocopy of your driver's license as further evidence, and the citation will be

dismissed. On a random basis, those responses will be checked against DMV records, but if the photo appears to be you, the citation will be remailed.

355 REP. PARKS: If you lie in an attempt to defend yourself, would that be considered perjury?

356 DEANE: Yes. But this is just a test, and it's not our intent to prosecute people for perjury. It's our intent to slow drivers down, so we would first send the citation back out.

363 REP. PARKS: Why bother with a test when this has already been tried in several places?

364 DEANE: We need to insure that photo radar works in the Oregon system. It is our intent to evaluate whether this should be used within Oregon, and to bring it back to the 1995 legislature for further review.

375 REP. MARKHAM: Notes interest in program by sheriff departments in Josephine, Jackson and Douglas counties.

363 ANNE O'RYAN, Public Affairs Manager, AAA of Oregon: Presents written testimony (EXHIBIT E) in opposition to SB 769.

TAPE 69, SIDE A

Additions to the record: SB 769 B-Engrossed Staff Measure Summary, Fiscal Analysis (EXHIBIT F)

017 REP. NORRIS: CLOSING PUBLIC HEARING ON SB 769 B-ENGROSSED Asks committee members whether a work session should occur for SB 769.

019 REP. HAYDEN: The Speaker has requested that we not continue proceedings during the lunch hour because the Democrats are in caucus, and would not have an opportunity to participate.

023 CHAIR NORRIS: We have a quorum. We also have witnesses who have travelled some distance to be here.

028 REP. HAYDEN: As Chair of the Full Committee, I am not comfortable proceeding with substantive business without the members of the Democratic caucus.

030 CHAIR NORRIS: Agrees to proceed with public hearings on remaining bills, reserving work sessions for future meetings.

039 OPENS PUBLIC HEARING ON SB 594

041 JULIE DOW, Committee Researcher: Senate Bill 594 is at the request of AAA of Oregon, and makes it an offense to operate a vehicle with a bumper height which exceeds 29 inches on any highway. This excludes commercial vehicles and vehicles which are over 10,000 pounds. Violations would include the operation of an unsafe vehicle, and a Class B traffic infraction with a maximum fine of \$250. Thirty-one states currently have some type of maximum bumper height restriction.

049 SCOTT THOMPSON, Traffic Safety Manager, AAA of Oregon: Presents written testimony (EXHIBIT G) in support of SB 594.

078 REP. BAKER: Do you have any statistics showing that this is a safety concern?

082 THOMPSON: Unfortunately, the police do not keep any statistics regarding fatalities and trucks which are over a certain height. Refers to testimony he is submitting from Frank Allen (EXHIBIT H).

087 CHAIR NORRIS: Are you suggesting that vehicles involved in accidents always meet "bumper to bumper"?

091 THOMPSON: No. The bill still allows a backyard mechanic to alter his bumper. At vehicle dealerships I surveyed, the highest bumper I found was 26 inches.

100 DEBBI GATHWRIGHT, Citizen: Testifies in support of SB 594. Describes accident involving her vehicle and a "lift-kit" pickup in which her five-week-old son lost brain function. A car roof is not built to withstand that type of impact.

123 DEAN BANKS, Citizen: We advocate the use of offroad vehicles, but these trucks should not be allowed on the road.

143 GATHWRIGHT: Describes medical treatment and costs for her son, Trevor.

158 REP. HAYDEN: Thanks witnesses for testimony. 160 PAUL DENUE, Citizen: Testifies in opposition to SB 594. Questions testimony by Scott Thompson regarding the dangers of high-set headlights. There is already a headlight law for pickups, which requires headlights to be no more than 54 inches from the ground.

181 MARK SHROYER, Citizen: Testifies in opposition to SB 594. The bumper height of 29 inches is too low. The highest bumper height we found at various car lots was 29 inches, which we found on a Dodge turbo diesel from the factory. Suggests substitution of 36 inches as maximum bumper height.

221 REP. HAYDEN: Could you lower the bumper of your vehicle to 29 inches without altering the vehicle?

226 SHROYER: It would take a lot to do it.

238 REP. BAKER: Do you know if there is a minimum height for bumpers?

240 SHROYER: You can't put it lower than the bottom of the wheel.

252 REP. BAKER: How does your vehicle's bumper match up with commercial rigs?

254 SHROYER: Their bumpers are lower, but my cab height is lower.

270 CHAIR NORRIS: For the record, we have received a whole sheaf of correspondence and petitions which oppose the bill.

CLOSES PUBLIC HEARING ON SB 594

OPENS PUBLIC HEARING ON SB 486 A-ENGROSSED

276 DOW: Senate Bill 486 is at the request of Fran Kendrick. It requires that separate restroom facilities for disabled persons be

built at new roadside rest areas, or when new restrooms are being built at existing facilities. It specifies that a person of the opposite sex may accompany a disabled person who is entering an existing facility, after first getting permission from those who are in the restroom. Signs would be posted outside the restroom, authorizing the entrance of an assistant.

The bill requires the Oregon Department of Transportation to establish a permit system allowing non-profit groups to provide non-alcoholic beverages and cookies at roadside rest areas. Under current administrative rules, groups are only allowed to provide coffee or other non-alcoholic beverages and they are only allowed to provide them on holiday weekends or other special weekends. Typically, non-profit groups provide this service as a fund-raising event, accepting donations from those served. The "cookie amendment" originated when a veterans' group wanted to provide cookies as well as coffee. Refers to fiscal analysis (EXHIBIT I).

290 BEVERLY BETTIS, Chair, Government Relations Committee, Oregon Multiple Sclerosis Society: Presents written testimony (EXHIBIT J) in support of SB 486.

326 CHAIR NORRIS: I've noticed most public restrooms have some accommodations for the disabled, but they're still separated by sex. Are unisex restrooms becoming more common in other parts of the country?

357 BETTIS: Yes. Those are being used to inexpensively reach compliance with the American Disabilities Act (ADA).

396 REP. JOHN SCHOON: Testifies in support of SB 486. Since my wife is in a wheelchair, we have had to improvise here at the Capitol, where there are no unisex restrooms. The single restroom is coming back in vogue. Describes disadvantages to regular restrooms, which can be too small for the disabled, and can increase the risk of falling.

TAPE 68, SIDE B

023 REP. MARY ALICE FORD: Testifies in support of SB 486.

029 LORRAINE POWELL, Member, Ladies Auxiliary to the Veterans of Foreign Wars: Testifies in support of SB 486.

045 SEN. BOB KINTIGH: Presents written testimony (EXHIBIT K) in support of SB 486.

062 LAUREL WHITEHURST, Legislative Aide to Sen. Frank Roberts: Testifies in support of SB 486. Lists associations which also support the measure, and distributes copies of sign (EXHIBIT L) currently used in California regarding attendants for the disabled in restrooms.

Additions to the record: SB 486 A-Engrossed Staff Measure Summary, Letter of Explanation from Senator Kintigh to Rep. Cedric Hayden dated July 14, 1993 (EXHIBIT M)

085 CHAIR NORRIS: CLOSSES PUBLIC HEARING ON SB 486 A-ENGROSSED

OPENS PUBLIC HEARING ON SB 1084 A-ENGROSSED

100 STAN ROBSON, Chief Criminal Deputy, Benton County Sheriff's

Department; Oregon State Sheriff's Association: Testifies in support of SB 1084.

107 RANDY FRASER, Hearings Officer, Motor Vehicles Division: Presents written testimony (EXHIBIT N) in support of SB 1084.

147 REP. HAYDEN: Citizens have to have a valid reason for not attending a hearing. This proposal says that an arresting officer may not have to attend due to "official duties."

155 FRASER: Administrative rules would establish very narrow guidelines.

170 REP. BAKER: Do you simply want to make this equal in the administrative process?

176 FRASER: It would provide a formal channel for the opportunity to have the hearing rescheduled.

184 ROBSON: I've had an officer who was on his way to a DMV hearing who stopped to assist another officer, which delayed him by more than 20 minutes. The delay was grounds for dismissal of the case.

205 REP. HAYDEN: Do these hearings involve misdemeanors or felonies?

208 FRASER: The hearings we're conducting are administrative reviews of Class A Misdemeanors, the charge of driving under the influence. The burden is on the state for a breath test refusal or a breath test failure to suspend the motorist's license from 90 days to three years. Statutes provide for a hearing rescheduling if the motorist has a conflict, but that equity is not provided for law enforcement. If an officer does not appear, the case is automatically dismissed.

223 REP. HAYDEN: It's best to give a citizen the benefit of the doubt. The state still has an advantage over citizens in the legal arena.

245 BILL JOHNSON, Lieutenant Patrol Division, Department of State Police: Presents written testimony (EXHIBIT O) in support of SB 1084.

257 BILL CROSS, Oregon Association of Chiefs of Police: Presents written testimony (EXHIBIT P) in support of SB 1084.

261 REP. HAYDEN: What assurance do we have that the state won't use this as an opportunity to inconvenience citizens?

270 CROSS: Rules would need to be drafted to narrowly define what "official duties" would be, such as conflict with other court dates, etc.

Additions to the record: SB 1084 A-Engrossed Staff Measure Summary, Fiscal Analysis (EXHIBIT Q)

292 CHAIR NORRIS: CLOSES PUBLIC HEARING ON SB 1084 A-ENGROSSED

Adjourns meeting at 1:05 p.m.

Submitted by:

Reviewed by:

Karen Cormac-Jones
Committee Administrator

Janet Adkins Committee Clerk

EXHIBIT LOG: A - SB 1105-A Testimony - Randy Fraser - 2 pages B - SB 1105-A Staff Measure Summary - Staff - 1 page C - SB 769-B Testimony and Informational Material - Staff - 57 pages D - SB 769-B Testimony - Kate Deane - 4 pages E - SB 769-B Testimony - Anne O'Ryan - 3 pages F - SB 769-B Staff Measure Summary, Fiscal Analysis - Staff - 3 pages G - SB 594 Testimony - Scott Thompson - 7 pages H - SB 594 Testimony - Frank Allen - 4 pages I - SB 486-A Fiscal Analysis - Staff - 2 pages J - SB 486-A Testimony - Beverly Bettis - 2 pages K - SB 486-A Testimony - Senator Bob Kintigh - 1 page L - SB 486-A Testimony - Laurel Whitehurst - 1 page M - SB 486-A Staff Measure Summary, Correspondence from Senator Bob Kintigh to Rep. Cedric Hayden - Staff - 3 pages N - SB 1084-A Testimony - Randy Fraser - 3 pages O - SB 1084-A Testimony - Bill Johnson - 1 page P - SB 1084-A Testimony - Bill Cross - 1 page Q - SB 1084-A Staff Measure Summary, Fiscal Analysis - 2 pages