

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL
ADMINISTRATION

April 21, 1993 Hearing Room 357

1:00 p.m. Tapes 81 - 82

MEMBERS PRESENT: Rep. Tom Brian, Chair Rep. Ken Baker Rep. Jim Edmunson
Rep. Tom Mason

STAFF PRESENT: Carole Souvenir, Committee Counsel Melanie
Thompson, Committee Clerk

MEASURES CONSIDERED: HB 2981 - Relating to possession of
firearms HB 3071 - Relating to the definition of "firearm"

[--- 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 ---]

TAPE 81, SIDE A

001 CHAIR BRIAN: Calls the meeting to order at 1:41 p.m.

HB 2981 - PUBLIC HEARING

Witness: Lt. Clifford Daimler, State Police

009 CAROLE SOUVENIR, COMMITTEE COUNSEL: HB 2981 requires imposition of
\$100 assessment upon conviction of offenses that have use, threatened
use or possession of firearms as element.

021 REP. BAKER: Wants to revisit the issue of the effect of the
bill on expenditures.

024 LT. CLIFFORD DAIMLER, STATE POLICE: Submits and reviews
written testimony in support of HB 2981. (EXHIBIT A)

HB 3071 - PUBLIC HEARING

Witnesses: Bob Skipper, Oregon State Sheriff's Association Lt.
Clifford Daimler, State Police John Nichols, Oregon State Shooting
Association Sgt. Kathy Farrell, Multnomah County Sheriff's Office Kevin
Starrett, Gun Owners of America Kathy Austin, Gun Owners of America Eric
Dickman, Citizen's Safety Committee Bill Temple, Oregon Association of
Gun Owners Kita Todd William Warther, Oregon Pro Gun Civil Rights Lobby
079 CAROLE SOUVENIR, COMMITTEE COUNSEL: HB 3071 expands
definition of "firearm" to include weapons that expel projectile by
action of black

powder. Explains -1 and -2 amendments. (EXHIBITS C - E)

097 REP. BAKER: Are the -1 amendments incorporated in the -2
amendments?

098 CAROLE SOUVENIR, COMMITTEE COUNSEL: Yes.

100 CHAIR BRIAN: Explains reasons for -1 and -2 amendments.

110 BOB SKIPPER, OREGON STATE SHERIFF'S ASSOCIATION: Submits and reviews written testimony in support of HB 3071. (EXHIBIT F)

144 LT. CLIFFORD DAIMLER, STATE POLICE: Testifies in support of HB 307 1. Supports -2 amendments.

157 JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION: Testifies in support of HB 3071.

170 CHAIR BRIAN: Cites -2 amendments. This increases the fee, but it also extends the permit to four years. Asks Lt. Daimler to describe how else it differs from the existing law.

181 DAIMLER: It clarifies the process of getting relief for the possession of a firearm and a concealed handgun license. Gives a peace officer the authority to seize a concealed handgun license upon the commitment of a misdemeanor or felony.

205 REP. BAKER: Did we clarify the misdemeanor charge?

210 CAROLE SOUVENIR, COMMITTEE COUNSEL: Under HB 2514 it was a Class A misdemeanor.

214 REP. BAKER: So we don't delegate at that point.

215 CAROLE SOUVENIR, COMMITTEE COUNSEL: There may be a conflict because of HB 2514.

216 REP. BAKER: Should we clarify on page 12, line 18 of HB 2514 that it is a class A misdemeanor?

224 SERGEANT KATHY FARRELL, MULTNOMAH COUNTY SHERIFF'S OFFICE: A concern would be raised with the language "Class A misdemeanor", instead of

"misdemeanor," because of shoplifting and harassment, which are not Class A misdemeanors.

235 DAIMLER: Clarifies the answer. This section allows an officer to seize the license, but not revoke it.

245 REP. BAKER: That's in the other bill?

246 DAIMLER: Yes.

255 KEVIN STARRETT, GUN OWNERS OF AMERICA: Testifies in opposition to HB 3071.

298 CHAIR BRIAN: Asks if he is speaking about the -2 amendments.

299 STARRETT: I'm concerned about the fee increases. I support an increase in the length of time a permit is valid for, but that alone is not

enough to make this bill a positive move.

315 CHAIR BRIAN: Is it not a sufficient trade-off to increase the length of permit validity?

317 STARRETT: No.

320 KATHY AUSTIN, GUN OWNERS OF AMERICA: Testifies in opposition to HB 3071.

353 REP. MASON: \$15 isn't a very big increase. Asks about Austin's reaction to the bill, outside of the fee increase.

377 AUSTIN: Not familiar with the bill outside of the fee increase and its background.

382 STARRETT: The \$15 increase may not sound significant. But for many people, the \$50 fee is already too much. This says, people are entitled to self-protection if they can afford it.

425 REP. MASON: Talks about the difficulty of getting a concealed weapons permit in Multnomah County.

463 STARRETT: A permit is not going to change someone's behavior. The people who receive these licenses are law-abiding.

TAPE 82, SIDE A

046 REP. MASON: Addresses page 2, line 9, of HB 3071. Why aren't the Air Force and Coast Guard included?

072 CHAIR BRIAN: Make a note of that.

073 ERIC DICKMAN, CITIZEN'S SAFETY COMMITTEE: Testifies in opposition to HB 3071.

148 CHAIR BRIAN: What is the National Rifle Association's (NRA) position on the bill?

156 DAIMLER: The NRA has not taken an official position on the bill.

166 NICHOLS: The NRA is reserving their decision until they see either the Legislative Counsel draft or the A-engrossed version.

175 CHAIR BRIAN: Addresses -2 amendments, page 11, line 30, through page 12. Page 2, lines 3-6, are being deleted.

200 FARRELL: Explains why the language is in the bill. 216 CHAIR BRIAN: It changes presumptions that a sheriff or an applicant might consider, as they think about how they have been handled or how they should handle.

221 FARRELL: To some extent, yes. It depends on the judge's opinion.

223 CHAIR BRIAN: There is a careful balance in all the elements of the firearms law.

228 NICHOLS: We agreed to the new language.

236 SKIPPER: It's not that much of a contingent point for the sheriffs.

239 REP. BAKER: The current test is whether someone has a propensity toward violence. The new test would be disrespect for the law. That's a

substantial change.

247 FARRELL: Judges have different opinions, as to what shows a propensity toward violence. Gives examples.

258 REP. MASON: Likes the old language, that talks about a pattern of violence. The new language could be a problem. It's a high standard.

277 CHAIR BRIAN: When a sheriff makes a decision to turn someone down, it could strengthen their hand, if it is appealed. Yet it sets out the

rules.

293 REP. BAKER: Asks if there is current authority to issue temporary licenses.

298 FARRELL: Not in Multnomah County.

307 CHAIR BRIAN: We find no authority in the statutes to issue temporary licenses.

312 SKIPPER: Prior to this law being enacted, we had 14 permits issued in Multnomah County. We now have over 7,000. Addresses Rep. Mason's

comments on the fee.

327 FARRELL: Addresses the issue of a 6-month state residency. It was not meant for citizens of the United States.

340 CHAIR BRIAN: A citizen of the U.S. can obtain a permit immediately upon moving into the state?

341 SKIPPER: Yes. We may need to clarify that.

354 CHAIR BRIAN: Reads language and suggests a change regarding the citizenship issue.

364 NICHOLS: Suggests another way to clarify language.

372 CHAIR BRIAN: Agrees.

377 BILL TEMPLE, OREGON ASSOCIATION OF GUN OWNERS: Discusses language on page 10, line 10, of the -2 amendments. On page 12, paragraph 4, there

is a problem with seizing a concealed handgun license and holding it for 30 days. 423 CHAIR BRIAN: Line 20 clarifies.

426 TEMPLE: How can the license be taken without a conviction?

431 REP. BAKER: There's a suspicion at that point.

TAPE 81, SIDE B

001 TEMPLE: It would fall under pre-trial release. However, there must be some adjudication in order to seize the person's property.

005 REP. BAKER: It's a seizure of the license. One of the conditions of the document is that the holder obey all laws. The felony must be

committed in the officer's presence.

012 TEMPLE: Yes. There may be a provision for an adjudication. The 30 days could be held in abeyance until it's adjudicated.

021 KITA TODD: Testifies in opposition to HB 3071. I am worried about my license being seized on an ungrounded suspicion, which leaves me

unprotected for 30 days.

064 CHAIR BRIAN: Questions page 12, line 17. Should we clarify the language so it reads "person who has been arrested"?

077 FARRELL: It was our intent that when a person is arrested or cited in lieu of an arrest the license would be seized.

081 DAIMLER: The wording in that section was crafted by the Oregon Pro Gun Civil Rights Lobby, to ensure that a license would not arbitrarily be

seized. (SEE EXHIBIT G) We would not oppose a change in that regard.

091 CHAIR BRIAN: Asks about language in the aforementioned section.

095 DAIMLER: Explains his understanding of the bill.

109 CHAIR BRIAN: You are addressing the situation of someone being arrested or cited for a crime which would otherwise disqualify them for receiving permits in the first place. If there is merely suspicion the license

would not be seized.

120 FARRELL: We should make it clear to the officers on the street because right now they are seizing licenses on suspicion only.

124 WILLIAM WARTHER, OREGON PRO GUN CIVIL RIGHTS LOBBY: The language should be changed.

130 CHAIR BRIAN: Would Oregon Pro Gun Civil Rights Lobby object if we changed the language to say "was arrested" or "cited" for a crime, which otherwise would have disqualified them?

135 WARTHER: If a person has committed a crime there would have to be legal action taken, in order to precipitate the withdrawal of the license. 138 CHAIR BRIAN: It is unclear: to have "committed" presumes guilt.

141 WARTHER: When an arrest has been made, the officer's testimony is prima facie evidence. On that basis one could withdraw the handgun permit.

147 CHAIR BRIAN: Are you agreeing with changing the language?

149 WARTHER: Yes.

150 DAIMLER: Once the concealed handgun license is seized, there should be a time limit that the crime can be charged by the district attorney. If that does not occur, that license must be returned.

154 CHAIR BRIAN: Yes. Refers to lines 19-22, page 12. This language could stay.

158 DAIMLER: Correct. The sheriff has the authority to review the issuance of that license.

162 FARRELL: Clarifies previous comments. Addresses page 10, lines 10 - 11. Suggests adding a section that states that a county sheriff can

waive the residency requirement for a resident of a contiguous state who has a legitimate need. This would help Vancouver residents who do business in Multnomah County.

194 REP. MASON: I'd like Air Force and Coast Guard added to line 13.

200 CHAIR BRIAN: Reiterates language on line 13.

HB 3071 - WORK SESSION

214 MOTION: REP. BAKER: Moves to AMEND HB 3071 by changing language on page 1, lines 13-14 to include Air Force and Coast Guard.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

220 CAROLE SOUVENIR, COMMITTEE COUNSEL: Suggests changes on page 3, line 11, adding language "as defined in ORS 163.005", after "the crime of

homicide".

MOTION: REP. BAKER: Moves to AMEND HB 3071 by changing the aforementioned language suggested by Committee Counsel

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

227 CAROLE SOUVENIR, COMMITTEE COUNSEL: The language on page 3, lines 25-30, and page 4, lines 1-3 was already dealt with in HB 2514-A.

245 REP. BAKER: HB 2514-A hasn't passed the Senate yet. Redundancy may be in order.

248 CHAIR BRIAN: Maybe we should leave the language. Wouldn't codification pick it up? 249 CAROLE SOUVENIR, COMMITTEE COUNSEL:

Can't do that. Explains problems with the different language.

257 CHAIR BRIAN: Asks for clarification.

262 MOTION: REP. BAKER: Moves to AMEND HB 3071 by changing language discussed by Committee Counsel.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

276 CAROLE SOUVENIR, COMMITTEE COUNSEL: Questions language on page 4, lines 13-15.

295 CHAIR BRIAN: The language on page 5, starting at line 20 would address that.

298 REP. EDMUNSON: I think due process would require an opportunity for a hearing.

299 CAROLE SOUVENIR, COMMITTEE COUNSEL: Yes.

303 CHAIR BRIAN: Suggests language change on page 5, beginning with line 20.

310 MOTION: REP. BAKER: Moves to AMEND HB 3071 by adopting the aforementioned language.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

317 CAROLE SOUVENIR, COMMITTEE COUNSEL: Lines 1-9 on page 5 are dealt with in HB 2514.

322 CHAIR BRIAN: The language in lines 1-5 needs to match that in HB 251 4.

326 MOTION: REP. BAKER: Moves to AMEND HB 3071 by changing the aforementioned language discussed by Committee Counsel.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

331 CHAIR BRIAN: Has a question about "restricted delivery" on page 11, line 26. It is a common phrase in the postal service business. On page

12, we discussed the restoration of language on lines 3-6.

349 MOTION: REP. BAKER: Moves to AMEND HB 3071 by adopting the aforementioned language.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

352 CAROLE SOUVENIR, COMMITTEE COUNSEL: Discusses language on page 12, line 17.

357 MOTION: REP. BAKER: Moves to AMEND HB 3071 by adopting
aforementioned language discussed by Committee Counsel.

VOTE: Hearing no objections the amendments are ADOPTED. All
members are present.

366 CAROLE SOUVENIR, COMMITTEE COUNSEL: Discusses language on
page 13, lines 18-21.

379 CHAIR BRIAN: Addresses other pages of the bill.

384 CAROLE SOUVENIR, COMMITTEE COUNSEL: On page 17, lines 6-7 and 30
were already dealt with in HB 2514-A. We need to make the
language

consistent.

388 CHAIR BRIAN: Clarifies necessary changes.

393 MOTION: REP. BAKER: Moves to AMEND HB 3071 by changing
the aforementioned language.

VOTE: Hearing no objections the amendments are ADOPTED. All
members are present.

395 CHAIR BRIAN: Explains page 18, lines 15-17, and page 19.

427 MOTION: REP. BAKER: Moves HB 3071, AS AMENDED, TO FULL COMMITTEE
with a DO PASS recommendation.

VOTE: 4-0 MOTION PASSES AYE: Baker, Edmunson, Mason, Chair Brian
NO: None

437 CHAIR BRIAN: Adjourns the meeting at 3:09 p.m.

Submitted by

Reviewed by

Elizabeth Gaupo
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on HB 2981 - Oregon Department of State Police - 3 pages
B - Testimony on HB 2981 - Oregon Department of Fish and Wildlife - 2
pages C - Proposed Amendments to HB 3071 - Committee Counsel - 7 pages
D - Proposed Amendments to HB 3071 - Committee Counsel - 16 pages E -
Proposed Amendments to HB 3071 - Committee Counsel - 20 pages F -
Testimony on HB 3071 - Multnomah County Sheriff's Office - 2 pages G -
Proposed Amendments to HB 3071 - Oregon Pro Gun Civil Rights Lobby - 4
pages