

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL
ADMINISTRATION

April 26, 1993 Hearing Room 357 1:00 p.m. Tapes 87 - 90

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

STAFF PRESENT: Holly Robinson, Committee Counsel Carole
Souvenir, Committee Counsel Sarah May, Committee Clerk

MEASURES CONSIDERED: HB 3134 - Relating to nuisance HB 3494 -
Relating to zoning HJR 57 - Relating to location of adult-oriented
materials or services business. [--- 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 87, SIDE A

004 CHAIR BRIAN: Calls meeting to order at 2:40 P.M.

HB 3134 & HB 3494 & HJR 57 - PUBLIC HEARING

Witnesses: Rep. Mary Alice Ford, District 8 Rep. Sharon Wylie,
District 22 Rep. Kate Brown, District 13 Rep. Ron Adams, District 27
Jonathan Cox, Officer Portland Police Bureau Hershall Lang, Officer
Portland Police Bureau Cheryl Hukill, Citizen Lousie Shaw, Residents
Against Pornography Maryann Brown, Citizen Gary Schwinett, Citizen Rep.
Kevin Mannix, District 22 Tonya McCombs, Portland School District Sue
Parker, Principal at Kellogg School Kathleen Cantrell, Citizen Gwen
Filbin, Citizen John Fagan, Attorney Caroll Depriest, Citizen Chuck
Filbin, County Commissioner, Wasco County Alice Forsythe, Citizen
Kathryn Imperati, City Attorney for Portland Katherine Anderson, Crime
Prevention Organizer Janet Arens, America Civil Liberties Union Brad
Woodworth, Attorney Tracy Blakeslee, Business Owner Phil Yoder,
Publisher and Business Owner Mike Smoke, Citizen and Producer Jean
Vossoughui, Citizen

HB 3134 - Expands nuisance law to include places where pattern of
disruptive activity occurs. (EXHIBIT A)

HB 3494 - Allows city or county to adopt zoning ordinance
regulating adult-oriented materials or services business.

HJR 57 - Proposes constitutional amendment to allow city or
county to adopt zoning ordinance that prohibits location of
adult-oriented

materials or services business within 1,400 foot radius of school zone or residential neighborhood. (EXHIBITS B,C, & D,

030 REP. MARY ALICE FORD, DISTRICT 8: Testifies in support of all three HB 's. Businesses considered nuisances because of inappropriate,

disruptive behavior. Submits letter. (EXHIBIT E)

102 REP. SHARON WYLIE, DISTRICT 22: Testifies and submits written testimony in support of all three HB 's. (EXHIBIT F,G, & H)

195 REP. BAKER: HB 3494 & HJR 57 reference city or county can adopt a zoning ordinance, prohibiting actions of 1,400 feet of school or

residential neighborhood.

200 REP. WYLIE: Suggested by review of distancing requirement that withstood constitutional challenge. Represents two city block.

Proposed amendments reduced to 1,000 feet.

211 REP. BAKER: Do we have a school zone?

214 REP. WYLIE: Outer perimeter of school.

219 REP. BAKER: We could extend our boundary for supervision several hundred feet around our school. Clarifies.

226 REP. WYLIE: Committee needs to discuss boundary issue. What is right distance to protect against adverse impacts and still allow for

existence of businesses?

237 REP. TIERNAN: Would bills cover specific business that is close to school zone? Example, Squirrel Cage. 243 REP. WYLIE: The nuisance law would be the best way to address business already in existence. Local jurisdiction.

248 REP. TIERNAN: Distance limitation within school zone?

253 REP. WYLIE: Bill refers to outer edge of school property, not what school zone covers.

268 CHAIR BRIAN: If school grounds were not adjacent to school, example athletic field, 1,000 feet from that area?

281 REP. WYLIE: If school owns property, regular use, it would be considered part of school.

287 CHAIR BRIAN: Are private schools included?

295 REP. WYLIE: Very complex issue.

301 REP. KATE BROWN, DISTRICT 13: Testifies in support of all three HB 's. Reads letter from constituent.

340 REP. BAKER: Would day care facility be considered a school?

342 REP. BROWN: Not clear as how school is defined in amendments, would like it to be considered.

348 REP. TIERNAN: Cites T & A times. Admission that papers end up in places that aren't intended.(EXHIBIT R)

361 REP. BROWN: Magazine constituent wanted me to share.

366 REP. RON ADAMS, DISTRICT 27: Testifies and submits written testimony in support of all three HB 's.(EXHIBIT I)

458 REP. TIERNAN: Are you aware of some of the activity that goes on around Squirrel Cage?

465 REP. ADAMS: Only heard stories. Wanted constituent to tell stories.

474 REP. TIERNAN: Urinating in public across from grade school?

476 REP. ADAMS: Yes.

491 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3134-3 amendments have 3 proposals. 1) If business has disruptive behavior occurring within a

certain period of time, could be shut down. 2) Expands nuisance statute, doesn't require a constitutional amendment, 3) Gives local community ability to civilly shut businesses down.

TAPE 88, SIDE A

061 REP. TIERNAN: Is this the one that died in the Senate last time?

062 HOLLY ROBINSON, COMMITTEE COUNSEL: No, two opinions have been given to the committee on what can be done constitutionally and what you need an amendment for. HJR 56 model that is now in HB 3134.

076 REP. TIERNAN: Does Sen. Cohen have problem with nuisance statute as constitutionally now?

077 HOLLY ROBINSON, COMMITTEE COUNSEL: Can't speak for her opinion. First time anyone has tried to attack issue through nuisance statute.

083 HOLLY ROBINSON, COMMITTEE COUNSEL: This issue has not been raised before.

090 HOLLY ROBINSON, COMMITTEE COUNSEL: The committee has been given list of offenses that are defensible, that would be appropriate.

104 HOLLY ROBINSON, COMMITTEE COUNSEL: No bills on this topic passed the House last session.

106 REP. BAKER: Is there any requirement of proximity between pattern of disruption and business in HB 3134?

110 HOLLY ROBINSON, COMMITTEE COUNSEL: Burden of proof would be to determine where those persons were customers.

113 HOLLY ROBINSON, COMMITTEE COUNSEL: Theoretically have option to close all down. Zoning versus licensing of businesses.

130 OFFICER JONATHAN COX, PORTLAND POLICE BUREAU: Testifies in support of all three HB 's. Direct correlation of prostitution, narcotics, and

video store nude dancing. Cites example of video store between 600 -1400 people per day at one location. Alcohol doesn't seem to be problem.

219 OFFICER HERSHALL LANG, PORTLAND POLICE BUREAU: Testifies in support of all three HB 's. Gives example of adult hotels, and other hotels. Adult

business vs. crime. Where you have adult business, increase in crime.

362 REP. TIERNAN: Any increase in drug activity?

364 COX: Always is.

371 REP. TIERNAN: Can you compare the kind of customer in this place versus that of regular bar?

375 COX: A cross-section.

412 CHERYL HUKILL, CITIZEN: Testifies in support of HB 3494. Cites examples that have happened since the opening of a topless, soon to be

nude, bar.

TAPE 87, SIDE B

012 LOUISE SHAW, RESIDENTS AGAINST PORNOGRAPHY: Testifies and submits written testimony in support of all three HB 's. (EXHIBIT J).

051 CHAIR BRIAN: Of these bills do you have an opinion which would be most effective?

052 SHAW: Both, HB 3494 & HJR 57, explains.

060 MARYANN BROWN, CITIZEN: Testifies and submits written testimony in support of all three HB 's. (EXHIBIT K)

157 GARY SCHWINETT, CITIZEN: Testifies and submits written testimony in support of all three HB 's. (EXHIBIT L)

206 REP. KEVIN MANNIX, DISTRICT 32: Testifies in support of all three HB 's. Urge committee to do what they can without changing constitution.

Consider amendments to Oregon constitution. Cites HB 2484, as vehicle to carry substantial amendments.

268 TONYA MCCOMBS, PORTLAND SCHOOL DISTRICT: Introduces - Sue Parker.

273 SUE PARKER, PRINCIPAL AT KELLOGG SCHOOL: Testifies and submits

written testimony in support of all three HB 's. (EXHIBIT M)

332 KATHLEEN CANTRELL, CITIZEN: Testifies in favor of the all three
HB 's.

390 REP. BAKER: Asks about the numbers of bars in Dufur.

392 CANTRELL: One, explains situation of man opening bar.

399 CHAIR BRIAN: What is population of Dufur?

401 CANTRELL: About 450.

402 CHAIR BRIAN: One or two bars can have significant effect on
community.

403 CANTRELL: Especially where this bar is located.

408 REP. TIERNAN: How many bars are there in Dufur?

409 CANTRELL: Two.

411 REP. TIERNAN: Where does cienteel come from?

420 CANTRELL: Owner thought he could pull in people within 50 mile
radius.

427 REP. TIERNAN: Where are they coming from if not from Dufur?

428 CANTRELL: Out of Washington.

437 GWEN FILBIN, CITIZEN: Testifies in favor of the HB 3494.
Dufur's business block is two blocks long, bar right n middle. Bar
owner lost

liquor license, now nude dancing juice bar.

TAPE 88, SIDE B

028 REP. TIERNAN: Do you feel you have enough law enforcement
support?

047 FILBIN: Discusses the lack of a police department.

053 JOHN FAGAN, ATTORNEY: Testifies and submits testimony in favor
of the all three HB 's.(EXHIBIT N)

100 CAROLL DEPRIEST, CITIZEN: Testifies in favor of all three HB 's.

149 CHUCK FILBIN, COUNTY COMMISSIONER, WASCO COUNTY: Testifies in
favor of all three HB 's.

161 ALICE FORSYTHE, CITIZEN: Testifies in support of bills.
Submits written testimony, signatures. Several nude or adult
businesses have

opened, cites examples. People trying to renovate Astoria. Need to be
regulated at local level.

225 KATHRYN IMPERATI, CITY ATTORNEY FOR PORTLAND: Submits written testimony with no position on bills.(EXHIBIT O)

260 REP. BAKER: Asks for copy of ordinance that declares business a nuisance that generates significant impact.

261 IMPERATI: Will forward one.

263 REP. BAKER: Have those ordinances been tested at all?

264 IMPERATI: Ordinance was just adopted, it is not effective yet.

265 REP. BAKER: Is it effective anywhere else in Oregon?

266 IMPERATI: Gresham has adopted a similar ordinance.

269 REP. BAKER: Has it been challenged?

270 IMPERATI: It has not.

274 KATHRYN ANDERSON, CRIME PREVENTION ORGANIZER: Testifies in support of all three HB 's. Involved in crisis and chronic crime. Has been

involved with the Kellogg/Powell Motel instance.

335 REP. BAKER: Are you starting to get a cluster of businesses that are adult oriented? What is the general consensus of the neighHB orhood?

348 Anderson: Yes there are clusters of businesses. Cites examples.

371 REP. BAKER: I noticed some of the buildings have changed. Can you cite neighHB orhood concerns.

373 Anderson: Prostitution becomes very mobile. Problem is prostitutes go into neighHB orhoods.

407 REP. BAKER: You mentioned that the areas are semi-mobile. Portland used to have restraining order. Is that still done?

417 Anderson: Not that I'm aware of. We do work a lot with the officers. It is mobile, in that they will move away from police, etc.

454 JANET ARENS, AMERICA CIVIL LIBERTIES UNION OF OREGON: Testifies on all 3 bills. In support of 3134, will be powerful tool for communities in

trying to deal with effects from adult business. Allows public officials and citizens to sue businesses. HJR 57 and 3494, are opposed to. Zoning is in conflict with Oregon Constitution.

TAPE 89, SIDE A

067 BRAD WOODWORTH, OREGON ATTORNEY: Testifies and submits written testimony in Opposition to all 3 HB 's.(EXHIBIT P) Cites map as

example. (EXHIBIT Q)

140 CHAIR BRIAN: Those areas all turn prohibited under HB 3494 because they are 1,000 feet away from public or private school.

142 Woodworth: 90% of Portland commercial area are in strips along major corridors, but a block away from residential.

149 REP. BAKER: Is this map computer generated? How much work would it take to run that at 1,200 feet or 1,000 feet?

150 Woodworth: Yes, from regional map service of metro. Should be relatively simple. Continues testimony.

211 CHAIR BRIAN: Do you now support Portland nuisance ordinance? If HB 313 4 were amended to reflect recent work, wouldn't it be helpful to you to

have that state wide, so that everyone knows rules?

219 Woodworth: Yes, but big problem, under Portland ordinance -city provides ordinance. Under state statute any person residing or doing

business can bring law suit. It brings in petty crimes. 247 TRACY BLAKESLEE, SHOP OWNER: We have product that there is demand for. Prostitutes are my competition. Problem is, I pay taxes. They steal my customers with no overhead. Nuisance ordinance says, if something happens within 600 feet of my business three times within a year, they will shut me down. But prostitutes don't get arrested, just issue citation. That is issue that you need to deal with. Cites officers testimony. Tells about his other store with no instances. My business does not cause these problems. We have no child-pornography. Punish perpetrator, don't punish everyone who wants product.

340 PHIL YODER, PUBLISHES T & A TIMES: Testifies and submits written testimony. (EXHIBIT R) Opposes all three HB 's. Finds extremely

ambiguous, and an attempt to legislate morality, instead of issues. One neighborhood that has adult type business says property value is up 30%. Cites statistics and details about businesses. If you're 18, you can

fight for your country, but there is a question of whether you can handle nudity. Urge to reconsider legislation.

TAPE 90, SIDE A

030 MIKE SMOKE, CITIZEN & PRODUCER: Submits video tapes. (EXHIBIT S) Testifies in support of all three HB 's.

059 CHAIR BRIAN: When you observe this behavior, do you call the Portland Police Department? Have they responded?

062 SMOKE: Yes, when they are able to get there before the people leave. Tells about video bookstore.

079 JEAN VOSSOUGHUI, CITIZEN: Testifies in support of HJR 57. Nuisance laws without zoning laws aren't effective. Cites example of when she

lived in Colorado. Tells of now, nude dancing bar in her area, and how her community can't do anything about it.

134 CHAIR BRIAN: Adjourn at 5:13 pm.

Submitted by:

Reviewed by:

Sarah May
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to HB 3134 - Committee Counsel - 5 pages B - Testimony on HB 3134 - Committee Counsel - 9 pages C - Testimony on HB 3134 - Committee Counsel - 12 pages D - ORS Statutes to HJR 57 - Committee Counsel - 3 pages E - Testimony on HB 3134, HB 3494, HJR 57 - Rep. Ford - 3 pages F - Testimony on HJR 57, & HB 3494 - Rep. Wylie - 4 pages G - Proposed amendments to HJR 57 - Rep. Wylie - 1 page H - Proposed amendments to HB 3494 - Rep. Wylie - 6 pages I - Testimony on HB 3134, 3494, & HJR 57 - Rep. Adams - 4 pages J - Testimony on HB 3134, 3494, & HJR 57 - Louise Shaw - 3 pages K - Testimony on HB 3134, 3494, & HJR 57 - Maryann Brown - 8 pages L - Testimony on HB 3134, 3494, & HJR 57 - Gary Schwindt - 8 pages

M - Testimony on HB 3134, 3494, & HJR 57 - Port. Pub. Schools-1 pg N - Testimony on HB 3134, 3494, & HJR 57 - John Fagan - 3 pages O - Testimony on HB 3134, 3494, & HJR 57 - City of Port. - 6 pages P - Testimony on HB 3134, 3494, & HJR 57 - Brad Woodworth-18 pages Q - Computer generated Map HB 3134, 3494, & HJR 57 - B.W. - 1 R - Testimony and magazines on HB 3134, 3494, HJR 57- Phil Yoder S - Video Tapes on HB 3134, 3494, & HJR 57 - Mike Smoke - 3 Tapes T - Testimony on HB 3494, & HJR 57 - City of Springfield - 2 pages U - Testimony on HB 3134, 3494, & HJR 57 - League of Ore. - 1 page