

HOUSE COMMITTEE ON JUDICIARY SUB-COMMITTEE ON CRIME AND CORRECTIONS

February 16, 1993 Hearing Room 357 3:00 p.m. Tapes 24 - 25

MEMBERS PRESENT: Rep. Bob Tiernan, Chair Rep. Kate Brown Rep. Peter Courtney Rep. Veral Tarno

STAFF PRESENT: Julie Nolta, Committee Clerk Holly Robinson, Committee Counsel Ian Lombard, Page

MEASURES CONSIDERED: HB 2318 - Relating to crime HB 2508 -  
Relating to crime HB 2693 - Relating to aggravated theft  
of a motor vehicle

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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 24, SIDE A

003 REP. COURTNEY: Calls meeting to order at 3:10 p.m.

HB 2508 PUBLIC HEARING

Witnesses: Rep. Gene Derfler, District 31 Frank Suniga Jessica Allen Terrance Allen Chuck Fredrickson Scott Thompson, AAA of Oregon

014 REP. GENE DERFLER, DISTRICT 31: Testifies in favor of HB 2508. Introduces Chuck Fredrickson, Legislative Assistant, who will sit in for him.

037 FRANK SUNIGA: Submits and reviews written testimony in support of HB

2508. (EXHIBIT A)

096 JESSICA ALLEN: Submits and reviews written testimony in support of HB 2508. (EXHIBIT B) 127 CHAIR TIERNAN: How long ago did this happen?

MS. ALLEN: April 12, 1985.

130 REP. TARNO: Asks Mr. Suniga if law enforcement was called to the scene of their assault.

SUNIGA: Yes.

REP. TARNO: Did they inform you this was just malicious mischief?

SUNIGA: No. But it is included in other documents in my possession.

144 CHUCK FREDRICKSON, LEGISLATIVE ASSISTANT TO REP. GENE DERFLER:  
Describes difference between felonious assault and malicious mischief in  
regards

to throwing rocks off overpasses.

151 REP. TARNO: If a rock is aimed toward a vehicle, the intent is  
to hurt someone which is assault in the first degree in my opinion.

FREDRICKSON: According to state police you have to prove intent  
otherwise it is considered malicious mischief.

166 CHAIR TIERNAN: At what freeway overpass did this occur?

MS. ALLEN: It was Talbot Road overpass near Albany.

CHAIR TIERNAN: Confirms location of overpass. Did they catch the  
individual?

MS. ALLEN: They have a couple of witnesses who saw teenagers on the  
overpass but no positive identification. Still under investigation.

CHAIR TIERNAN: This happened during the day?

MS. ALLEN: No, at night.

184 TERRANCE ALLEN: Submits and reviews written testimony in support  
of HB 2508. (EXHIBIT C)

266 MS. ALLEN: The individual who killed Charles Layfield only  
served 70

weeks. And he was charged with vehicular assault.

271 SUNIGA: Most of these incidents are considered malicious  
mischief.

275 CHAIR TIERNAN: How many recorded cases do you have?

SUNIGA: A couple of dozen.

CHAIR TIERNAN: Are those all in Oregon? SUNIGA: Yes, all in Oregon.

279 MR. ALLEN: Describes other incidents, some from other states.

287 MS. ALLEN: State Patrol records about 100 incidents of rock  
throwing

per year.

SUNIGA: Describes an incident in Everett, Washington.

300 REP. TARNO: Is appalled that term "malicious mischief" was used  
when it should be "attempted murder." Whether the intent is implied or  
explicit, the crime should be more appropriately handled and classified.

312 MR. ALLEN: Pushing for crime to be classified as "murder" or "attempted murder" because the crime status might affect the degree of investigation. After eight years, no one has been caught or prosecuted for what they have done to my daughter.

329 SUNIGA: In our case, the individual was prosecuted. He was nearly 18 years old and received 7-25 years. Has served four years.

341 MS. ALLEN: The offender in Mr. Suniga's case was caught because he bragged about the incident.

MR. ALLEN: Pleased that Mr. Suniga's case was dealt with so severely and hope that that will set a precedent.

SUNIGA: Describes the concrete rock that was thrown through his windshield and the resulting injury to his wife.

403 SCOTT THOMPSON, SAFETY MANAGER, AAA OF OREGON: Submits and reviews written testimony in support of HB 2508. (EXHIBIT D) Presents AAA publication. (EXHIBIT E)

442 CHAIR TIERNAN: Is this publication being used in schools?

THOMPSON: It is directed to junior high students. Publishers felt it was important to target and educate students.

CHAIR TIERNAN: Is there an active educational process now in any of the Oregon schools regarding this information?

THOMPSON: Not that I am aware of. Describes his job as Safety Manager for AAA.

468 CHAIR TIERNAN: Asks if witness is familiar with the history of the bill. Has this been introduced before?

THOMPSON: Not to my knowledge.

HOLLY ROBINSON: Not introduced in the last two sessions. 482 CHAIR TIERNAN: Are there similar laws in Washington or California regarding objects thrown from freeway overpasses?

THOMPSON: Doesn't know.

CHAIR TIERNAN: Asks witness to check with other AAA associations to see what other states have similar legislation.

#### HB 2693 - PUBLIC HEARING

Witnesses: Rep. Peter Courtney, District 33 Anne O'Ryan, AAA Oregon Dan Stroebel, City of Eugene Joe Zink, City of Portland Dale Gessner, Salem Police Department

057 REP. PETER COURTNEY, DISTRICT 33: Introduces bill and gives background. Submits and reviews written testimony in support of HB 2693. (EXHIBIT

F)

118 CHAIR TIERNAN: Where does aggravation come into the bill? What kind of physical force has to be used to take the car? Do you have to have a weapon or steal the car in the person's presence?

126 REP. COURTNEY: Don't have to be armed to come under the statute but the victim feels threatened enough by your presence to give up the car.

137 HOLLY ROBINSON: Describes Class C and Class B felonies as relating to car theft.

150 REP. TARNO: Add to end of line 5 of HB 2693 "by force or fear."

155 HOLLY ROBINSON: This addition creates a version of robbery instead of theft. The crime becomes aggravated when a victim is present and any element of threat is added. It then becomes a Class C felony. The issue is at what point is it theft as opposed to robbery?

181 CHAIR TIERNAN: Wants to get at the meaning of the bill by questioning different situations that could occur. The victim has to be near or by the car to be considered a theft.

198 REP. COURTNEY: One of the reasons car-jackings are occurring is because alarm devices make it harder to get in to cars now. A thief can only get in now when owner is there. Not the only reason for legislation however.

216 LT. WILLIAM JOHNSON, OREGON STATE POLICE: Submits and reviews written testimony in support of HB 2693. (EXHIBIT G)

237 REP. BROWN: Generally the police don't have time to investigate car thefts. Because there is a victim involved in the crime, will this make a difference? JOHNSON: Gives statistics from 1992 regarding car thefts. This crime is clearly a violent act rather than just theft of a motor vehicle.

257 CHAIR TIERNAN: What crime is committed by stealing a car?

JOHNSON: Unauthorized use of a motor vehicle which is a Class C felony.

CHAIR TIERNAN: If the victim was within 20 feet of the car and it was stolen, would that rise to the limit of the bill?

JOHNSON: I believe so.

272 CHAIR TIERNAN: Is it correct that Portland is not investigating motor vehicle theft? Is there an estimate on how many car thefts could be prosecuted as a Class B felony?

JOHNSON: Would not have figures on that.

294 ANNE O'RYAN, AAA OREGON PUBLIC AFFAIRS MANAGER: Submits and reviews written testimony in support of HB 2693. (EXHIBIT H)

412 CHAIR TIERNAN: What would this bill cover that the federal law does not?

O'RYAN: The federal law mentions firearms only. This may leave

loopholes open to intimidation or other weapons. HB 2693 would be more inclusive.

432 CHAIR TIERNAN: If a car-jacking was committed with a weapon, which law would they be more likely to be prosecuted under? The federal or state laws? Does one carry a greater penalty?

O'RYAN: Describes federal law penalties.

476 DAN STROEBEL, PUBLIC SAFETY, CITY OF EUGENE: Testifies in support of HB 2693.

TAPE 24, SIDE B

024 STROEBEL: Testimony continues.

069 CHAIR TIERNAN: Shouldn't threat of violence be an element of the crime?

STROEBEL: It may or may not be appropriate depending on each case. The more elements a crime requires, the less motivated the prosecutors will be on following up on this crime.

087 STROEBEL: Continues testimony.

REP. COURTNEY: Why include only cars valued over \$10,000 ? STROEBEL: Current aggravated theft statute requires that amount.

122 JOE ZINK, DETECTIVE, CITY OF PORTLAND: Testifies in support of HB 269 3.

154 DALE GESNER, AUTO THEFT UNIT, SALEM POLICE DEPARTMENT: Testifies in support of HB 2693.

190 CHAIR TIERNAN: How many cars were stolen in Salem last year?

GESNER: Approximately 600.

CHAIR TIERNAN: How many stolen in Portland last year?

ZINK: Just short of 10,000.

195 REP. COURTNEY: They are not all car jackings but there is a correlation developing. Believes we will see more.

207 REP. BROWN: Does the fact that a person is involved change the priority level?

GESNER: Person crimes take priority with the District Attorneys office.

217 ZINK: That statement is accurate. Car jacking laws are robbery laws

now which makes them person crimes. Those carry a much higher priority.

235 CHAIR TIERNAN: Adjourns meeting at 4:20 p.m.

Submitted by:

Reviewed by:

Julie Nolta  
Committee Assistant

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on HB 2508 - Jessica Allen - 2 pages B - Testimony on HB 2508 - Frank Suniga - 2 pages C - Testimony on HB 2508 - Terrance Allen - 24 pages D - Testimony on HB 2508 - Automobile Club of Oregon - 1 page E - Publication regarding HB 2508 - Automobile Club of Oregon - 8 pages F - Testimony on HB 2693 - Rep. Peter Courtney - 1 page G - Testimony on HB 2693 - Lt. William Johnson - 2 pages H - Testimony on HB 2693 - Automobile Club of Oregon - 3 pages I - Testimony on HB 2693 - Police Chief Tom Potter - 1 page J - Analysis of HB 2693 - Oregon District Attorneys Association - 2 pages