

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

April 6, 1993 Hearing Room H-174 3:00 p.m. Tapes 68 - 69

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

VISITING MEMBER: Rep. Del Parks

STAFF PRESENT: Julie Nolta, Committee Clerk Holly Robinson, Committee Counsel

MEASURES CONSIDERED: HB 2014 - Relating to suspension of driving privileges HJR 65 - Relating to Oregon's opposition to U.S. Dept.

of Transportation Appropriations Act HB 3320 - Relating to criminal procedure HB 3319 - Relating to knives

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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 68, SIDE A

CHAIR TIERNAN: Calls meeting to order at 3:10 p.m.

HB 2014, HJR 65 - PUBLIC HEARING

Witnesses: Joan Plank, Department of Transportation Tony Delorenzo, Department of Transportation Rep. Kevin Mannix, District 32 Rosanna Creighton, Citizens for a Drug Free Oregon Richard Goheen, Citizens for a Drug Free Oregon

007 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2014 repeals those sections of

Chapter 835, Oregon Laws 1991 which impose a suspension or revocation of driving privileges for convictions of non-driving drug offenses.

HJR 65 states the Legislature's opposition to legislation that requires the suspension or revocation of the driving privileges of a person convicted of a drug offense if that person is not operating a motor vehicle. (EXHIBIT A)

039 REP. PARKS: This is the most expeditious way to handle the potential

loss of federal highway funds rather than trying to pass a bill that might not meet other requirements that we are unaware of.

064 CHAIR TIERNAN: What was the original reason for passing this bill and why did they choose to sanction drug activity by revoking drivers licenses?

REP. PARKS: Believes that the drug offense should be related to motor vehicles in some way.

HOLLY ROBINSON, COMMITTEE COUNSEL: It was part of the federal governments efforts against drugs and they were looking at every opportunity to tie it to money.

REP. TARNO: Refers to HB 2014, lines 9 and 10. It eliminates delivery and manufacture of controlled substances but leaves in "possession." Is delivery something we can leave in because it is related to motor vehicles?

090 REP. PARKS: We will go back and work on the bill after we have complied with the federal requirements.

107 JOAN PLANK, DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLES DIVISION: Testifies in favor of HB 2014 and HJR 65.

136 CHAIR TIERNAN: Have highway funds been withheld from the state that you are aware of?

PLANK: No.

139 TONY DELORENZO, DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLES DIVISION: Submits and reviews written testimony in favor of HB 2014 and HJR 65.

(EXHIBIT B, C, D)

202 HOLLY ROBINSON, COMMITTEE COUNSEL: Gives historical background of the bills for clarification.

254 PLANK: The federal government is encouraging us to do one of the two

options so we don't lose the highway funds. Most states are passing the resolution. The problem is that the federal government is getting very specific about how the license suspension is to be done.

275 DELORENZO: Continues testimony.

290 HOLLY ROBINSON, COMMITTEE COUNSEL: There is nothing that prevents the committee from passing HJR 65 and still maintaining a statute that suspends driver's licenses but is not a compliance question. The Legislature will want to have a program in place that does what it thinks the policy should be. HJR 65 can be passed and still not touch

the underlying statute but at this point they are tied together.

312 REP. COURTNEY: When did you hear that the Department of

Transportation needed a joint resolution?

DELORENZO: Oregon has known that the resolution was an alternative from the day the Congress passed the Federal Department of Transportation Appropriations Act in 1990. Explains the states' options to avoid losing federal highway funds.

REP. COURTNEY: To the best of your knowledge, is the U.S. Department of Transportation of the same opinion?

DELORENZO: The Department of Transportation is simply carrying out the Congressional mandate. The Secretary of Transportation is required to administer the act that Congress passed no matter what his opinion is.

345 REP. TARNO: What would it take to pass this so we would be in compliance as opposed to doing away with the bill?

CHAIR TIERNAN: Discusses three alternatives.

HOLLY ROBINSON, COMMITTEE COUNSEL: Encourages the committee not to tie the bill and the current statute together. If the state chooses to fix the current statute and the Department of Transportation decides in six months that it is not sufficient for their purposes, we run the risk of losing highway funds. There is no reason why HB 2585 cannot stay on the books so long as it is not used as the compliance mechanism, which would be the problem. We can do what the federal government has directed us

to do which is no guarantee that when they review the action that they will be happy with that either. That is the fear of the Department of Transportation in going forward with a driving suspension compliance bill.

386 REP. TARNO: Have we received any notification of non-compliance from

the federal government?

HOLLY ROBINSON, COMMITTEE COUNSEL: Yes.

PLANK: These bills have nothing to do with the fact that we continue to suspend the licenses of people convicted of driving under the influence of intoxicants.

CHAIR TIERNAN: How about people who possess drugs in their cars?

PLANK: They have to be under the influence to suspend. If this is repealed, your license would not be suspended for possession.

404 CHAIR TIERNAN: If we passed HJR 65 and I had two pounds of cocaine in my trunk, my license would be suspended.

PLANK: If you passed HJR 65 only. HOLLY ROBINSON, COMMITTEE COUNSEL: We would have to rewrite it.

DELORENZO: HJR 65 does nothing to change Oregon law.

HOLLY ROBINSON, COMMITTEE COUNSEL: But it doesn't repeal HB 2585, it would have to be modified. My instructions were to write it as if the underlying statute was repealed but there is nothing that requires us to that. If no action is taken on HB 2014 as written, then HB 2585 stays. If you pass just HJR 65 then it stays on the books.

428 REP. COURTNEY: We would have to change the language on lines 23-25 of HJR 65?

HOLLY ROBINSON, COMMITTEE COUNSEL: Would have to look at federal statutes to make sure that we complied. You may be able to say that you register your opposition to federally mandated legislation, which is the point. Do you want to do it because U.S. policy makers want to do it or because it is federally mandated?

REP. COURTNEY: There is no way to leave the language on lines 23-25 in and still maintain current law which suspends a drivers license for someone dealing with drugs but who is not driving a car.

464 HOLLY ROBINSON, COMMITTEE COUNSEL: If the committee moves in that direction, if similar language to this is necessary to satisfy the federal government, then the solution is opposition to federally mandated legislation.

481 DELORENZO: Concludes testimony.

TAPE 69, SIDE A

033 PLANK: We would like the opportunity to help write the legislation because we tried to write it the way the federal government asked us to and they make it really hard.

049 REP. KEVIN MANNIX, DISTRICT 32: Testifies in opposition to HB 2014 and HJR 65.

089 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 102 is dead at the moment because we are working on this issue.

092 MANNIX: Continues testimony.

111 CHAIR TIERNAN: Does not feel that the philosophy reflects the opinion of the majority.

MANNIX: Doesn't want us admitting that we aren't meeting the requirements of Section 333 of the U.S. Dept. of Transportation Appropriations Act. Feels we should get ourselves exempted by passing a simple resolution and get back to dealing with our own laws.

136 ROSANNA CREIGHTON, EXECUTIVE DIRECTOR, CITIZENS FOR A DRUG FREE OREGON: Submits and reviews written testimony in opposition to HB 2014 and HJR

65. (EXHIBIT E)

162 REP. BROWN: Did the 1991 HB 2585 allow the court to suspend your driver's license if you had drugs stored at home?

CREIGHTON: Yes it would and was part of the federal regulation that we not determine that it be tied with wheels. It is a removal of privilege and a consequence for behavior.

185 CHAIR TIERNAN: Believes the committee is heading in the direction of

passing HJR 65. Asks for witnesses opinion on that approach.

CREIGHTON: Expresses opinion and concerns on HJR 65 and its possible effects on HB 2585 of 1991. Explains voting record of 1991 Legislative Session for HB 2585. (See Exhibit E)

217 RICHARD GOHEEN, CHAIRMAN, CITIZENS FOR A DRUG FREE OREGON: Testifies in opposition to HB 2014 and HJR 65.

HJR 65 - WORK SESSION

271 HOLLY ROBINSON, COMMITTEE COUNSEL: Recommends ways to address concerns that will meet minimum federal requirements. Can delete lines 8-18, insert "federally mandated" before "legislation" in line 23, and delete lines 26-28 and it will be adequate for the purposes of the federal Dept. of Transportation.

288 MOTION: REP. TARNO: Moves to AMEND HJR 65 by deleting lines 8-18, inserting "federally mandated" before "legislation" in line 23, and deleting lines 26-28.

VOTE: 3-0 MOTION PASSES AYE: Brown, Tarno, Tiernan NO:
None EXCUSED: Courtney

302 MOTION: REP. TARNO: Moves HJR 65 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 3-0 MOTION PASSES AYE: Brown, Tarno, Tiernan NO:
None EXCUSED: Courtney

HB 3319 - WORK SESSION

Witnesses: John Nichols, Oregon State Shooting Association Jackie Bloom, City of Portland Mike RamSB y, Oregon State Police

322 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3319 prohibits carrying concealed knives that have fixed or locking blade at least three and one-half inches long, as well as ballistic and push knives. (EXHIBIT F)

The reason the bill is here is because a court decision preempts the City of Portland from adding knives to the concealed weapons statute.

Recommends that the definition of "fixed knives" and "push knives" be amended to alleviate committee concerns about buck knives and hunting knives and urban and rural concerns.

364 CHAIR TIERNAN: Refers to mail order knife catalog.

REP. BROWN: Has a buck knife at home and this bill would prohibit me from carrying that in my pocketbook?

HOLLY ROBINSON, COMMITTEE COUNSEL: Depending upon the length of the blade and the way the definition is written.

419 JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION: This is similar to the assault weapon definition. Knives are considered to be nearly as lethal as gun shot wounds. We prefer the approach of the intent with which the knife is carried. We had no objection to adding the definition of "ballistic knife" to HB 3319 as originally drafted. Our concern is for hunters and collectors with no criminal intent. Discusses including in HB 3319 language from the 1991 Legislative Session bill on drive by shootings.

TAPE 68, SIDE B

030 NICHOLS: Continues testimony.

041 CHAIR TIERNAN: We have no problem with ownership. It is a question of carrying it to appropriate places. My concern is placing a weapon in plain sight in your car for anyone to take.

NICHOLS: Has no problem with bills aimed at the carrying of any type of concealed weapon for inappropriate purposes. Our concern is that there isn't just a definition based on physical appearance rather than the intent.

074 JACKIE BLOOM, CITY OF PORTLAND: There is a major law enforcement problem and would like to amend the language so that it becomes so specific that it applies to knives with one purpose only: fighting.

082 CHAIR TIERNAN: You can carry a concealed knife as long as you have a

permit?

BLOOM: There is no permit required. This statute applies to carrying concealed weapons. "Carrying" does not apply to having a knife by your bed.

CHAIR TIERNAN: But there is no provision to carry a weapon like this if you decided to do that?

NICHOLS: No, there isn't. Restates that they have no problem with the carrying of concealed knives for unlawful purposes. Supports the current statute and the revision as drafted.

102 REP. TARNO: Suggests the witnesses write a definition of "assault knife."

NICHOLS: Any time there is a definition put on something the bad guys figure out what isn't covered by that.

REP. TARNO: Some pack the big knives for show and sometimes they get

into trouble.

NICHOLS: Any time you define a weapon, someone is going to figure out a way to get around it.

120 CHAIR TIERNAN: You don't oppose ballistic knives?

NICHOLS: They are already illegal under federal law.

124 SGT. MIKE RAMSBY, OREGON STATE POLICE: In current law, a person would be in violation if they carried concealed upon their person. Suggests a definition of "assault knife."

166 NICHOLS: We would rather have a statute related to unlawful carrying

with the intent to use.

CHAIR TIERNAN: Asks witnesses to come up with options and definitions.

HB 3320 - PUBLIC HEARING

Witnesses: Jackie Bloom, City of Portland Lt. Patrick Nelson, Portland Police Bureau

184 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3320 deletes requirement that a receipt be mailed to the person in apparent control of a residence when a mobile tracking device has been tracked to an identifiable residence

for things seized or observations made pursuant to a warrant authorizing the tracking device.

197 JACKIE BLOOM, GOVERNMENT RELATIONS, CITY OF PORTLAND: Testifies in support of HB 3320.

207 LT. PATRICK NELSON, DETECTIVE DIVISION, PORTLAND POLICE BUREAU: Testifies in support of HB 3320. (EXHIBIT G)

267 REP. TARNO: Feels it is a good bill.

CHAIR TIERNAN: Asks for a scenario when a receipt would be required.

274 NELSON: Explains the use of a "bird dog" mobile tracking device in a

stolen vehicle and where receipts had to be sent.

REP. TARNO: Gives another example of being required to send out receipts and tipping off criminals as to police awareness of a drug operation.

HB 3320 - WORK SESSION

322 MOTION: REP. TARNO: Moves HB 3320 TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 3-0 MOTION PASSES AYE: Tarno, Parks, Tiernan NO:
None EXCUSED: Brown, Courtney

333 CHAIR TIERNAN: Adjourns meeting at 3:45 p.m.

Submitted by: Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on HB 2014 and HJR 65 - Committee Counsel - 17 pages B -
Testimony on HB 2014 - Oregon Dept. of Transportation - 2 pages C -
Testimony on HJR 65 - Oregon Dept. of Transportation - 3 pages D -
Fiscal Impact Statement on HJR 65 - Oregon Dept. of Transportation - 2
pages E - Testimony on HB 2014 - Citizens for a Drug Free Oregon - 2
pages F - Statutes relating to HB 3319 - Committee Counsel - 4 pages G
- Testimony on HB 3320 - Portland Police Bureau - 3 pages