

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

March 17, 1993 Hearing Room D 1:30 p.m. Tapes 50 - 52

MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Dennis Luke
Rep. Bill Markham Rep. Ray Baum

MEMBER EXCUSED: Rep. Nancy Peterson

VISITING MEMBER: Rep. Tim Josi

STAFF PRESENT: Kathryn Van Natta, Committee Administrator Karen
McCormac, Committee Clerk

MEASURES CONSIDERED: Public Hearing - HB 2129 - HB 2128 - HB
2127

WITNESSES: NANCY CAMPBELL, Office of State Fire Marshal
LANA BUTTERFIELD, Northwest Propane Gas Association RALPH RODIA, Office
of State Fire Marshal JERRY WALLACE, Blasting Services Company Owner

REX JEFFRIES, Tualatin Valley Fire and Rescue JAMES COURT, Office of
State Fire Marshal REP. LISA NAITO CHUCK NAGELE, Portland Adventist
Medical Center JOHN ALTO, Petroleum Retailers of Oregon JOHN McCULLEY,
Agriculture Cooperative Council MIKE SHERLOCK, Oregon Gasoline Dealers
Association LARRY HILL, Oregon Gasoline Dealers Association

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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 50, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:35 p.m.

OPENS PUBLIC HEARING ON HB 2129

015 KATHRYN VAN NATTA, Committee Administrator: Introduces
meeting materials, including a preliminary staff measure summary
(EXHIBIT A),

the revenue analysis (EXHIBIT B), which indicates no revenue impact, and
pertinent statutes.

046 NANCY CAMPBELL, Office of State Fire Marshal: Provides
testimony (EXHIBIT C) in support of HB 2129. Explains bill.

061 REP. FISHER: Will we hear testimony from industry?

064 CHAIR REPINE: There is a representative here from the Northwest Propane Gas Association.

068 REP. DOMINY: On Line 15 of HB 2129 regarding the establishment of rules, it refers to prorated fees for periods of less than a year. Why

should there be licenses for portions of a year?

073 CAMPBELL: Previously there was an allowance for prorating, which provided more flexibility. Legislative counsel recommended the inclusion of this language in the bill.

078 REP. DOMINY: Would you have a problem with a period inserted after "expiration date"?

079 CAMPBELL: No.

083 REP. DELL: If I began a business mid-year and applied for my license, would I only be charged for the remainder of that year?

085 CAMPBELL: Yes. It is our intent to give a full year to insure staggered renewals, but it also allows for flexibility.

089 REP. DOMINY: It's my understanding that new applicants who apply in March will continue to have the month of March as their anniversary

date. There would be no reason to provide a "short year."

092 CAMPBELL: That is correct.

111 CHAIR REPINE: All licenses currently expire on January 15. This bill will provide the assignment of new anniversary dates to licensees, and

the proration accompanying their annual fee will be billed at that point.

120 CAMPBELL: That is our preference. Over time, licenses will not all be due at the same time.

145 LANA BUTTERFIELD, Northwest Propane Gas Association: Presents testimony (EXHIBIT D) in support of HB 2129.

166 CHAIR REPINE: Will there be any revenue loss to your agency?

168 RALPH RODIA, Office of the State Fire Marshal: Under current statute, if a new applicant applies in October, they must pay full fees for the

two remaining months plus full fees in January. We assume we will not lose revenue due to cost savings to the agency for double-billing.

189 CHAIR REPINE: CLOSING PUBLIC HEARING ON HB 2129

OPENS PUBLIC HEARING ON HB 2127

192 VAN NATTA: Introduces meeting materials, including a preliminary staff measure summary (EXHIBIT E), a revenue impact analysis (EXHIBIT F),

indicating there is no revenue impact, and copies of statutes regarding explosives and the Office of the State Fire Marshal. The State Fire Marshal will present the bill.

234 RODIA: Presents written testimony (EXHIBIT G) in support of HB 2127.

344 REP. DOMINY: Questions inspections performed by "State Fire Marshal or local district" in HB 2127. Who decides who performs the inspection?

And if a local fire department performs the inspection, who retains the fee?

353 RODIA: We would that local officials know who is making a request to purchase and use explosives. Local officials would then perform the

inspections and receive the fee. The \$30 fee will be set by administrative rule, and would offset costs to local fire departments.

If there is no local fire authority to perform the inspection, the State Fire Marshal's office would perform the inspection and retain the fee.

376 REP. DOMINY: Will cities be required to perform inspections? Will they need to send a report to the State Fire Marshal? We continue to give

new responsibilities to local officials who do not necessarily have the personnel.

390 RODIA: Local authorities will not be required to perform inspections. They or the applicant could send us a signed application showing an

inspection has not been made, and we would then perform the inspection and charge the \$30 fee.

403 REP. DOMINY: Questions testing of applicants to determine whether they have an acceptable knowledge of explosives.

407 RODIA: Oregon is one of the few states which does not have any criteria which tests the knowledge of people who use explosives.

TAPE 51, SIDE A

001 REP. DOMINY: Will the examination be adopted through administrative rules?

007 RODIA: Yes. An examination would be developed through an advisory committee. 011 REP. FISHER: What constitutes a storage

facility, and where can it be sited?

016 RODIA: We have adopted the National Fire Protection Association (NFPA) 495, which contains the requirements for magazine storage. This

includes specifications for walls, roof, distance from various property structures, etc.

031 REP. FISHER: Where are explosives more often stolen?

036 RODIA: Often people working with explosives at logging or construction sites don't label the explosives because they may be stolen. Explosives can disappear from any location.

069 REP. FISHER: How will you define "adequate knowledge" regarding explosives?

072 RODIA: "Adequate knowledge" means experience plus information provided by the applicant. Part of the examination is requiring the applicant to provide us with information regarding their experience with explosives. We also would perform a background check to insure they can safely

handle explosives. The other part of the examination will be based upon known practises or upon knowledge of reference materials, such as NFPA 495.

086 REP. FISHER: Are background criminal checks included?

087 RODIA: That is currently required.

091 REP. FISHER: Questions Fire Marshal's use of fees.

098 RODIA: If the committee would prefer to establish a cap, we would not have a problem with that. However, if fees are too inadequate, we may

not be able to fund the program. This bill allows any savings to remain in the Fire Insurance Premium Tax, which is available to fund other programs.

116 REP. LUKE: Requests clarification of application fees.

119 RODIA: A five-year permit is \$30. There is also a \$30 one-time inspection fee. However, additional inspections must be performed if

there are changes in storage facilities.

130 REP. LUKE: Couldn't the Fire Marshal's office go to the E-Board for needed fee increases during the interim?

132 RODIA: That is correct.

158 REP. LUKE: There are sanctions against the sellers of illegal explosives. What about the buyers?

164 RODIA: Under current statute, we have no penalty powers. We could file with the district attorney, who could pursue criminal actions against

the party which violated the statutes.

199 REP. DELL: You have eliminated the ability of a company to apply for a permit. How will companies apply for permits with passage of this bill?

203 RODIA: Currently, when a permit is issued to a company, the comptroller generally applies for the explosives permit. The shop clerk then issues the explosives to a designated employee. We do not know who the

designee is, and cannot test them to insure safety.

224 REP. DELL: I understand the program is not self-supporting. What is the actual cost of this program?

230 RODIA: The annual cost is roughly \$27,000, which we supplement with approximately \$15,000. More than half the costs of this program are

supplemented by the Fire Insurance Premium Tax.

245 REP. DELL: Currently, convicted felons cannot obtain an explosives permit, yet people convicted of DUII can obtain an explosives permit.

Do you intend to change this?

253 RODIA: We are not satisfied with that portion of the law, but are unsure how to resolve the problem.

270 REP. FISHER: How many accidents involving explosives have occurred?

273 RODIA: I can get those statistics for you. It is a very low figure.

284 CHAIR REPINE: I notice the \$30 site inspection is referred to in your written testimony as \$40.

294 RODIA: That amount is based upon an earlier estimate. A \$40 fee would be sufficient to not necessitate raiding the Fire Insurance Premium Tax.

306 CHAIR REPINE: Should there be a differentiation between those who use explosives on a large scale versus those who rarely use explosives?

310 RODIA: Staff time to process applications would be the same, and it would be difficult to justify a higher fee for heavier usage.

323 CHAIR REPINE: How is the site investigation tied to the application process?

344 RODIA: Before completing the examination process, an applicant needs to show they have a storage site. An exception would be if

explosives are

used as they are purchased. However, if an applicant subsequently began to store explosives, they would be in violation of the law. It is not a perfect system.

380 JERRY WALLACE, Blasting Services Company Owner: Testifies in support of HB 2127. Advocates more stringent licensing of explosives operators.

TAPE 50, SIDE B

049 REP. FISHER: Do you think there should be no cap on fees?

050 WALLACE: If higher fees would prevent accidents caused by unskilled people, I would be happy to pay an additional amount. A three-year

blasters' license in Alaska is \$75.

065 REP. FISHER: Other states have different tax structures, so that may be an unfair comparison.

129 REX JEFFRIES, Tualatin Valley Fire and Rescue: Testifies in support of HB 2127.

140 REP. FISHER: Do you have any information on the number of accidents due to explosives?

141 JEFFRIES: Within our fire district, there have been three incidents.

156 CHAIR REPINE: Would most fire agencies be able to perform storage site inspections?

154 JEFFRIES: We would be willing to inspect all explosives and magazines, since the regulations are already in place. The State Fire Marshal only assists at our request.

165 REP. LUKE: Is this \$30 inspection fee sufficient for your costs?

171 JEFFRIES: Yes.

178 JAMES COURT, Office of the State Fire Marshal: Provides testimony in support of HB 2127 (EXHIBIT H).

249 REP. MARKHAM: How much education should be required?

259 COURT: The testing process should be based on the NFPA 495, and the Uniform Fire Code Article 77, which regulates the use of explosives.

264 REP. MARKHAM: Is this testing currently a requirement of the federal government?

268 RODIA: Oregon already recognizes federal licensing requirements.

295 CHAIR REPINE: CLOSING PUBLIC HEARING ON HB 2127

OPENS PUBLIC HEARING ON HB 2128

299 VAN NATTA: Introduces meeting materials, including the preliminary staff measure summary (EXHIBIT I), a copy of the revenue impact

statement (EXHIBIT J) which shows there is no revenue impact, and copies of pertinent statutes. The Fire Marshal's Office will present the bill.

310 RALPH RODIA, Office of the State Fire Marshal: Provides testimony (EXHIBIT K) in support of HB 2128.

406 REP. FISHER: If this is contracted out, will the rules be consistent statewide? Will additional fees charged by local agencies be allowed? 414 RODIA: This bill includes a request for two positions in the State Fire Marshal's Office to oversee inspections in areas in which there are no

fire authorities. The arrangement with local agencies would be similar to the contract arrangement we currently have with the Hazardous Material Response Teams, in which we pay them for services and have written contracts for particular services. All citations would come through our office to insure uniformity and fairness. Local agencies would be performing the inspections, and the State Fire Marshal's Office would be processing paperwork, handling appeals, etc.

TAPE 51, SIDE B

018 REP. LUKE: This program was mandated by the 1991 Oregon Legislative Session. Does this bill provide necessary funding for this program,

since it was not included in the Governor's budget.

020 RODIA: That is correct.

021 REP. MARKHAM: Do you hope to contract with every fire district in the state?

023 RODIA: No. We would regionalize the state and authorize fire officials to serve a region as part of their contract.

039 REP. JOSI: Is the \$5 fee from SB 1215? And will it be used to contract out these inspections?

045 RODIA: Yes. That is correct.

049 REP. LISA NAITO: Presents proposed amendments (EXHIBIT L) to HB 2128 and testifies in support of the measure. The State Fire Marshal's

Office does not oppose these amendments.

068 CHUCK NAGELE, Portland Adventist Medical Center: Testifies in support of proposed amendments to HB 2128. Believes hospitals provide essential services, and should have access to cardlock systems.

120 REP. LUKE: If this bill does not pass, would your amendments need to be on another bill?

121 REP. NAITO: Yes.

118 REP. MARKHAM: Do all hospital personnel have a cardlock key? What do other hospitals do?

126 NAGELE: Yes. Other hospitals would have cardlock systems if they were allowed by present law. We initiated our cardlock system before the

laws changed.

129 REP. MARKHAM: You are basically in direct competition with the service station across the street. How many cards are issued by your

organization?

133 NAGELE: Approximately 650.

137 JOHN ALTO, Petroleum Retailers of Oregon: Presents written testimony (EXHIBIT M) in opposition to HB 2128. Recommends amendments to make

bill more palatable.

211 JOHN McCULLEY, Agriculture Cooperative Council: Testifies in opposition to HB 2128. Expresses concerns regarding the consistency of auditors

who are contracted to provide services. 242 MIKE SHERLOCK, Oregon Gasoline Dealers Association: Testifies in opposition to HB 2128. Senate Bill 1215 was a compromise regarding

cardlock operation. The State Fire Marshal's Office has done an adequate job of auditing, but has been less than adequate job in the enforcement of existing rules.

294 LARRY HILL, Oregon Gasoline Dealers Association: Currently, the Governor's budget proposes to suspend enforcement of the prohibition on self-service for cardlocks, but she does not propose to suspend

enforcement of the prohibition on self-service for retail dealers.

Without an effective enforcement program, this will result in cardlock operations signing up retail customers and allowing them to pump their own gas. We want equity between cardlocks and retail service stations.

384 REP. HOSTICKA: ORS 483.75 is still in effect, and this bill does not attempt to repeal that. If the Governor does not give the State Fire

Marshal's office money for cardlock enforcement, but the statutes still require this, could an ordinary citizen seek a court order to make the

State Fire Marshal's office do this?

406 HILL: Yes.

415 REP. MARKHAM: How many retail stations have both cardlock and retail operations?

423 SHERLOCK: Very few. The Fire Marshal regulations prohibit dual operations unless there is a fifty foot separation between cardlock

islands and retail islands.

TAPE 52, SIDE A

001 CLOSES PUBLIC HEARING ON HB 2128

003 CHAIR REPINE: Due to the lack of time, we will not be able to hear testimony on HB 2130 today. We will reschedule the public hearing for

HB 2130.

REOPENS PUBLIC HEARING ON HB 2127

010 VAN NATTA: Testimony (EXHIBIT N) from the Marion County Fire District Number 1, dated March 17, was distributed to committee members, and

indicates support for HB 2127.

CLOSES PUBLIC HEARING ON HB 2127

015 CHAIR REPINE: Adjourns meeting at 3:27 p.m.

Submitted by:

Reviewed by:

Karen McCormac
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 2129 Preliminary Staff Measure Summary - Staff - 1 page B
- HB 2129 Revenue Impact Analysis - Staff - 1 page C - HB 2129
Testimony - Nancy Campbell - 4 pages D - HB 2129 Testimony - Lana
Butterfield - 1 page E - HB 2127 Preliminary Staff Measure Summary
- Staff - 1 page F - HB 2127 Revenue Impact Analysis - Staff - 1
page G - HB 2127 Testimony - Ralph Rodia - 9 pages H - HB 2127
Testimony - James Court - 2 pages I - HB 2128 Preliminary Staff
Measure Summary - Staff - 1 page J - HB 2128 Revenue Impact
Analysis - Staff - 1 page K - HB 2128 Testimony - Ralph Rodia - 16

pages L - HB 2128 Proposed Amendments - Rep. Lisa Naito - 2 pages M
- HB 2128 Testimony - John Alto - 2 pages N - HB 2127
Testimony - Lt. Ron Smith - 1 page