

HOUSE COMMITTEE ON NATURAL RESOURCES

July 20, 1993 Hearing Room D 2:00 p.m. Tapes 98 - 99

MEMBERS PRESENT: Rep. Ray Baum, Chair Rep. Carl Hosticka, Vice-Chair
Rep. Marilyn Dell Rep. Sam Dominy Rep. Bill Fisher Rep. Tim Josi Rep.
Dennis Luke Rep. Bill Markham Rep. Chuck Norris Rep. Nancy Peterson Rep.
Liz VanLeeuwen

MEMBER EXCUSED: Rep. Bob Repine

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk

MEASURES CONSIDERED: SB 632-B - Public Hearing

WITNESSES: Paul Hanneman, Oregon Shellfish Industry Sen.
Joan Dukes, District 1 Laurence Kraft, State Police Rod Ingram,
Department of Fish and Wildlife Ron Phillips, Oregon Shellfish Industry
Rhonda Hamstreet, Embarcadero Dock Ltd. Janice Laviolette, Jetty Fishery
Shirley Laviolette, Jetty Fishery Lorna Youngs, Department of
Agriculture Mike Skeels, Health Division

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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
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TAPE 98, SIDE A

005 CHAIR BAUM: Calls the meeting to order at 2:05.

PUBLIC HEARING ON SB 632 - SB 632-A establishes a \$3 annual resident
shellfish taking license; increases certification fees for
commercial shellfish operations, creates a commercial harvester
certificate, and transfers the authority for shellfish monitoring from
the Health Division to the Department of Agriculture.

012 PAUL HANNEMAN, Oregon Shellfish Industry: Supports this bill along
with the House version (HB 2331). The program must be maintained.
The

industry supports the fee increase because we must have the inspection
and certification program.

049 SEN. JOAN DUKES, District 1: My intent was to introduce this
bill to allow the decision to be made whether the shellfish monitoring
program

be funded by fees or through the General Fund. Without an inspection program, we might lose all of our money from tourists who come to take shellfish. Moving this program to the Department of Agriculture makes sense; they are already involved in shellfish programs.

099 The bill sets up a \$3 annual resident license fee and a \$6 non-resident license fee. The bill transfers the authority for shellfish monitoring

from the Health Division to the Department of Agriculture.

144 There is a sunset provision of January 1, 1998.

150 REP. NORRIS: Could we have a provision exempting those under 14 years of age?

162 SEN. DUKES: I wouldn't have a problem with that. I believe we would still be okay fiscally.

189 REP. NORRIS: I will probably be making an amendment to that effect.

193 REP. HOSTICKA: Where does the bill say that you can't take shellfish without a license?

200 SEN. DUKES: That may need to be stated in the bill.

205 REP. PETERSON: What is the fine for someone who gets caught digging for clams without a license?

207 SEN. DUKES: I believe it would be the same penalty as any other hunting or fishing violation.

217 LAURENCE KRAFT, State Police: The penalty would be a Class A misdemeanor. It could be up to \$2500 fine. The normal fine is nowhere

near that. Generally, it's a very small fine with evidence that you've purchased a license. I'm not sure where the bill references the fine.

That is a question legal counsel should answer.

234 REP. PETERSON: How can five police cadets patrolling the whole coast provide adequate enforcement?

243 SEN. DUKES: Word of mouth from warnings or fines incurred will travel to other clambers. 259 REP. LUKE: How much of the fee will go to the person who issues the license to cover their cost?

264 SEN. DUKES: It would be whatever it is now.

270 REP. LUKE: We just gave them \$1, so if you're only instituting a \$3 license then you're only generating \$2.

274 Does the State Police anticipate posting?

277 KRAFT: Our policy on enforcement of this would be active information/education programs. Certainly, the first year or two, we

would issue a lot of warnings instead of citations.

286 REP. LUKE: Would crawfish be included?

293 KRAFT: Crawfish would be exempt.

299 REP. DELL: What happens to the program when the money is short?

305 SEN. DUKES: We don't anticipate the program being short of funds. The only place where it may be tight is the actual start-up of the funding. We anticipate \$682,000 a biennium to come in and be spent.

334 REP. FISHER: Is it true that crab are not affected by toxins?

348 SEN. DUKES: The domoic acid gets in the guts of the crab and some people eat that.

363 REP. FISHER: How much of the projected funding would go to administrative costs that are different than what we pay for the program now?

374 SEN. DUKES: The program costs for either the last biennium or this biennium were \$521,000. We anticipate the entire program cost would be

\$682,000. The vast majority of the funding goes to the testing program.

385 REP. FISHER: According to the fiscal budget report, the cost would be 782,000?

386 SEN. DUKES: My office came up with the \$682,000.

393 CATHERINE FITCH, Committee Administrator: It's also not known how many residential licenses will be issued.

TAPE 99, SIDE A

012 REP. LUKE: You'll need a license to take mussels?

015 SEN. DUKES: Yes. 018 REP. DELL: The income would be \$682,000, and the cost for the way it is run now is \$521,000?

020 SEN. DUKES: Yes. Fiscal is anticipating that we will take in more than we anticipate.

026 REP. DELL: Then you would use \$100,000 for your cadets?

030 SEN. DUKES: Yes, and then \$61,000 for Fish and Wildlife's administrative costs.

034 REP. DELL: If \$1 will be taken out of the income for each one of these licenses, then there won't be enough money.

036 SEN. DUKES: It is not my understanding that \$1 will be taken out of this.

038 ROD INGRAM, Department of Fish and Wildlife: The \$1 agent fee would be in addition to the license fee, so it would be \$4 for the license.

047 REP. NORRIS: Could the agent fee be \$.50 in this case?

049 INGRAM: That's what it was until the Governor signed the bill changing it to \$1.

053 REP. NORRIS: Couldn't this fee for shellfish be separate?

054 INGRAM: I suppose we could.

055 REP. NORRIS: Could there be a provision for a daily license for \$1 a day and an exemption for those under 14? I think we need more

flexibility here.

062 SEN. DUKES: A daily license would be very cost ineffective. The paperwork involved would make it too expensive.

070 REP. NORRIS: Should we then repeal the one-day fee for a hunting license?

074 SEN. DUKES: I don't think they're handled the same way. You would see more one-day licenses for shellfish because people only get them when

they are at the coast. It was difficult to try to determine what you would get for a one-day shellfish license when an annual license was only \$3.

082 INGRAM: The major concern when you make the daily license is that you will have a difficult time generating the revenue to cover the program.

091 REP. HOSTICKA: According to staff, this activity falls under the general prohibition of angling without a license, and that provision

does say that people under the age of 14 are exempt. So the exemption for those under 14 years old would apply in the bill as it is.

102 REP. NORRIS: Don't they use the term "angling?"

104 REP. HOSTICKA: Yes, that's what they say, that this is just considered angling with the amendment proposed to that definition in this bill.

110 SEN. DUKES: Senate President Bradbury was here earlier and had to leave for another meeting. He is in support of the bill.

114 RON PHILLIPS, Oregon Shellfish Industry: The industry supports this bill. Our fees are going up 400-500%.

140 We urge you to continue the program for the public health. We

want to survive too.

147 REP. NORRIS: How is the shellfish industry doing?

150 PHILLIPS: We're a viable industry but we're in trouble because of conflicting regulations between different agencies.

161 REP. NORRIS: How many different species are included?

165 PHILLIPS: Oysters, mussels and crabs.

169 CHAIR BAUM: When you said oysters did you include clams?

170 PHILLIPS: Yes.

178 REP. DELL: There's a \$75 fee for harvesters for people who commercially harvest clams or mussels. There is no mention of a harvesting fee for

oysters or crabs. Do the oyster growers pay a fee through the producers? How are we assessing the oyster and crab people?

184 PHILLIPS: Harvesters are being treated as harvesting a wild crop. Oyster people plant a seed and they harvest their own crop. It doesn't

make sense to assess them a harvesting fee.

191 REP. DELL: How about crabs?

195 PHILLIPS: Crab is not a bi-valve mollusk. Crabs are impacted by some of the same health threats that the others are.

198 REP. DELL: Why aren't we collecting on commercial crab harvesting?

205 INGRAM: They already have a commercial license for crab harvest.

225 REP. DELL: So they are handled separately?

228 INGRAM: Yes.

232 REP. MARKHAM: Do you have to buy the license for crabbing?

240 INGRAM: Yes.

250 REP. MARKHAM: Can I buy a commercial license and take all the clams I want? 270 REP. JOSI: He can buy a commercial license but then he would have to sell them.

281 RHONDA HAMSTREET, Embarcadero Dock Ltd.: Testifies against SB 632. SB 632 will be devastating to small businesses like mine. If there's a

fee, it should be the same for residents and non-residents. Submits written testimony in opposition of SB 632 (Exhibit A) and testimony in opposition of SB 632 from Bob and Darlene Blodgette (Exhibit B).

378 REP. JOSI: Sen. Dukes said there was no negative testimony on the Senate side. Did you hear about that meeting?

380 HAMSTREET: I never heard about the bill until recently.

TAPE 98, SIDE B

010 JANICE LAVIOLETTE, Jetty Fishery: This is normally the peak of our busy season so it's extremely difficult to make it in to testify.

055 REP. DOMINY: We didn't hear about this bill any earlier than you did. Things change quickly for us also.

069 SHIRLEY LAVIOLETTE, Jetty Fishery: Submits written testimony in opposition to a shellfish license (Exhibit C).

081 The amount of fees that are anticipated to be collected may not actually be the amount collected. 087 It does not pay to write licenses for \$.50 a piece.

111 The testing has never done anything to improve the season.

129 REP. PETERSON: If this fee didn't happen and there was no money in the General fund to keep this health monitoring program open, do you sense

that it wouldn't affect your business one way or another?

133 SHIRLEY LAVIOLETTE: I don't believe it would because this doesn't have anything to do with crabs, to my knowledge.

139 REP. PETERSON: But if this program was operating, they would no longer be there to say that there is something wrong with the crabs. What if

there was no longer any health program around to say whether the crabs were good or bad?

140 SHIRLEY LAVIOLETTE: This has never affected crabbing in the past so it probably won't in the future. It would affect the growers most.

143 CHAIR BAUM: What is your recommendation to fund this?

148 SHIRLEY LAVIOLETTE: Those that are polluting should be helping to fund this. The sports crabbers are not causing the pollution. A more

manageable fee would be a fee on the crab rings.

165 JANICE LAVIOLETTE: The crabs are only affected by the poisons in the viscera. An educational program on not eating the viscera will take

care of the problem with the crabs. This whole program will benefit oyster growers. The commercial growers could contract with a private tester.

194 REP. PETERSON: The license should be on clams and mussels?

200 JANICE LAVIOLETTE: Yes, because those are the only things that are affected. We started a petition at our business asking people if they

would pay an extra \$5 or \$10 to do this activity (Exhibit D). All except one said they would not pay extra to go crabbing.

255 REP. NORRIS: I think we have some inconsistency that bothers me. The definition of "shellfish" provided in ORS 506.011 includes abalone,

crabs, clams, mussels, oysters, crayfish, scallops, and shrimp. Then on page 3, line 29 of the bill that we're dealing with says "shellfish being all fresh and frozen oysters, clams or mussels." It excludes crabs. This is inconsistent.

288 Angling means taking a fish. It doesn't say aquatic life.

290 CHAIR BAUM: What if we adopted the definition and limited it to shellfish, exclusive of crab and crawfish? The problem is that if we

excluded crabs, the revenue would be affected.

315 SHIRLEY LAVIOLETTE: Another inconsistency is that sportsmen have to get a shellfish license on top of a fishing license and commercial

harvesters of crab don't have to get an additional shellfish license on top of their commercial fishing license.

328 CHAIR BAUM: We'll look at what kind of a fee we'd have to put on shellfish if we were going to exclude crab to generate the revenue

required.

331 REP. JOSI: This is an issue that I've spent a lot of time on. The bottom line is that the water testing program must be funded. The other issue is, how do we get there? I was delighted to hear that the House

leadership had funded this through the General Fund. It certainly solves a lot of the contention problems that I've dealt with. Now it

looks like that decision is being reversed, so this licensing mechanism is forced on us again. I like the direction that the committee is going in addressing your problems because your problems are real. I don't

believe that the goal is to put you out of business, so I believe we need to address those concerns.

367 CHAIR BAUM: What was said about charging a fee on a crab ring?

376 SHIRLEY LAVIOLETTE: If there were a fee on a crab ring, that would be easier to manage.

385 REP. FISHER: It was testified that there were sources of pollution getting into the waters that would cause this and those sources weren't being tapped for funds to help out with the testing and yet they were

causing it. Can you be more specific?

400 SHIRLEY LAVIOLETTE: Sue Cameron with the Health Department said that one ounce of cow manure could be detected in five swimming pools of

water. That is one reason that our bays are closed. In the winter time a heavy rain will run off the dairy farms into the bays with all this pollution and the bays are shut down because of too much cow manure in the water. We have to wait to sell shellfish until it is not polluted anymore.

TAPE 99, SIDE B

023 HAMSTREET: The commercial oyster growers are going to be most impacted by it so they should fund it.

031 REP. JOSI: That would be the answer if the industry was big enough.

039 HAMSTREET: Why should we pay for that industry?

040 REP. JOSI: There are other contaminants besides domoic acid.

043 JANICE LAVIOLETTE: Submits written testimony in opposition to SB 632 (Exhibit E). Also submits letters from Scott Saxton, Brighton Marina,

(Exhibit F) and Margie Neilson, Wheeler Marina (Exhibit G) in opposition to SB 632.

064 REP. NORRIS: Would you have to have a basic angling license for this?

068 CHAIR BAUM: No, it's a fee that stands on its own.

070 Is there much of a disease factor that the Health Division has picked up on crabs?

075 LORNA YOUNGS, Department of Agriculture: We regulate crabs in the Department of Agriculture already. We regulate all seafood except for

shellfish, which are the three defined bi-valves. We conduct the testing that needs to be done on crab to determine whether domoic acid

or paralytic shellfish poisoning are in these animals; and if they are in these animals, then we take the regulatory action to prevent those animals from being sold in commerce.

085 CHAIR BAUM: If it's already being done within your existing budget, why are we considering putting a fee on these animals that you are already

inspecting?

087 YOUNGS: I can only speculate that the reason that the crabs are included in the licensing mechanism is because of the volume of

individuals that go crabbing versus the volume of individuals who would take only mussels and other bi-valves.

092 REP. HOSTICKA: Do you test the crabs or the water?

094 YOUNGS: We test the crabs.

095 REP. HOSTICKA: So if there was a condition in the water, you wouldn't know about it until it showed up in the crabs?

099 YOUNGS: That's correct. We are dealing with crabs in commerce. We are not dealing with recreational crabbing.

100 REP. HOSTICKA: What is the difference between ocean crabs and bay crabs?

101 YOUNGS: We are testing all crabs.

102 REP. HOSTICKA: Is domoic acid prevalent in all crabs?

103 YOUNGS: It can be in any crab.

104 CHAIR BAUM: How many instances of inappropriate levels of contaminants do you find in crabs on a yearly basis?

107 YOUNGS: We only recently found out that these contaminants can be found in the viscera of the crabs; so we don't know how many instances

occurred in the past because we did not look at this animal as a potential for this kind of contamination. Since we've been looking, we've been finding the organism. Two years ago, we found high levels of contaminants and we kept the season from being opened until those levels went down. The levels last season did not go above the threshold.

117 CHAIR BAUM: When you say "viscera", you're referring to the guts of the crab?

121 YOUNGS: Correct.

122 CHAIR BAUM: Is the white meat of the crab affected?

126 YOUNGS: We have not found it in the meat.

130 CHAIR BAUM: Your continuing inspection of crab is not dependant upon this bill?

132 YOUNGS: Correct, we will continue with that program under our food safety program.

133 REP. JOSI: When you say "in the clam organism" are you talking about the gut of the clam or throughout the whole clam itself?

135 YOUNGS: It's in the clam meat.

143 REP. DELL: Does the revenue collected from current commercial crab licenses cover all of the program that you provide?

146 YOUNGS: We do not receive any revenue from crabbing licenses currently. We collect license fees from the processor and the retailer.

158 REP. LUKE: What is Fish and Wildlife doing with the money? Wants to know how much they get and what they do with that money.

186 REP. FISHER: Do the pollutants come from the dairies only?

195 MIKE SKEELS, Health Division: There are different kinds of sources of pollution. Cow manure has been a frequent source of pollution for which bays are closed to harvesting. There have also been some human sewage

contamination problems. The paralytic shellfish poisoning, red tide toxins, and the domoic acid toxins are naturally occurring algae that grow in the ocean. They are not the result of pollution.

228 CHAIR BAUM: Closes public hearing on SB 632.

Meeting adjourned at 3:45.

Also submitted for the record:

- Letter from Hilda Moravick, Lincoln County Human Services Department (Exhibit H) - Testimony in support of SB 632 from Laurence Kraft, Oregon Department of State Police (Exhibit I) - Preliminary Staff Measure Summary, ORS 506.011, Budget Report and Measure Summary, Senate Vote Sheet and Revenue Impact Statement (Exhibit J).

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - SB 632 - Testimony - Rhonda Hamstreet - 1 page B - SB

632 - Testimony - Bob and Darlene Blodgette - 1 page C - SB 632 -
Testimony - Shirley Laviolette - 3 pages D - SB 632 - Information
- Janice Laviolette - 5 pages E - SB 632 - Testimony - Janice
Laviolette - 2 pages F - SB 632 - Testimony - Scott Saxton - 3
pages G - SB 632 - Testimony - Margie Neilson - 1 page H -
SB 632 - Testimony - Hilda Moravick - 2 pages I - SB 632 -
Testimony - Laurence Kraft - 2 pages J - SB 632 - Preliminary Staff
Measure Summary, ORS 506.011, Budget Report and Measure Summary,
Senate Vote sheet, Revenue Impact

Statement - Staff - 6 pages total