

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

February 10, 1993 Hearing Room 343 3:00 p.m. Tapes 12 - 13

MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Bill Kennemer, Vice-Chair  
Sen. Brady Adams Sen. Ron Cease

MEMBER EXCUSED: Sen. Peg Jolin

VISITING MEMBER:

STAFF PRESENT: Cherie Copeland, Committee Administrator Richard  
Day-Reynolds, Committee Assistant

MEASURES CONSIDERED: Introduction of Committee Bills

Public Hearing and Possible Work Session: SB 341 - Modifies  
offense of illegal consignment practices. SB 342 -  
Increases amount of bond or letter of credit required  
from applicant or dealer seeking vehicle dealer  
certification or renewal.

[--- 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 12, SIDE A

010 CHAIR DWYER: Calls the meeting to order at 3:05. Takes the  
agenda out of order to introduce committee bills. LC 2861, LC 2890, LC  
2971, LC

3089. [QUOTE] "It's been the policy of the committee, and will continue  
to be, that the introduction and the voting by the members to introduce  
these as committee bills does not imply either support or objection."

Hearing no objections, SO ORDERED.

SB 341 - MODIFIES OFFENSE OF ILLEGAL CONSIGNMENT PRACTICES - PUBLIC  
HEARING

Witnesses: Wanda Wahus, Oregon Independent Auto Dealers Dennis Koho,  
Department of Motor Vehicles (DMV)

055 WANDA WAHUS, OREGON INDEPENDENT AUTO DEALERS ASSOCIATION:  
Supports the bill, but with reservations. The law does not  
currently allow

dealer-to-dealer consignments. We have amendments that address that issue.

082 CHAIR DWYER: Why should a dealer be able to consign from dealer to dealer, and not the owner of the vehicle?

085 WAHUS: This bill allows only dealer-owned cars to be consigned dealer to dealer. We offer two amendments that add wording to inform consumers where to go if they have a complaint.

102 SEN. KENNEMER: If there were a complaint, DMV has the authority to follow up on the complaint?

110 WAHUS: There is a penalty, enacted last session, for dealers who do not comply with the law. DMV can enforce the law.

121 DENNIS KOHO, DEPARTMENT OF MOTOR VEHICLES: (EXHIBIT B). Consignment is a source of lost revenue for consumers. SB 341 sends a message to

consignment dealers that money derived from consignment sales is not theirs to be used for 30 days. Motor Vehicles can enforce this bill, and we believe there will be good compliance with the bill and its tightened timeframe.

131 SEN. KENNEMER: The amendment implies that you have the authority to do this.

134 KOHO: Yes.

138 CHAIR DWYER: What happens if a consumer wants to file a complaint? Who can they go to?

150 KOHO: They can go to DMV, and the department can assess civil penalties.

160 CHAIR DWYER: Is the bonding company liable?

164 KOHO: Yes. There are exceptions to the rule, but it is not common.

179 CHAIR DWYER: Where in line is the consumer to get money from the bond?

184 KOHO: Usually first come, first serve until the limit of the bond is reached. There are only five or so occasions of a bond having to be

retired in the last few years.

SB 342 - INCREASES AMOUNT OF BOND OR LETTER OF CREDIT REQUIRED FROM APPLICANT OR DEALER SEEKING VEHICLE DEALER CERTIFICATION OR RENEWAL - PUBLIC HEARING Witnesses: Timothy Wood, Department of Justice James McLaughlin, Department of Justice Ray Gribbling, Oregon Automobile

Dealers Association Rich Keister, Oregon Automobile Dealers Association  
Ron Terry, Oregon Independent Auto Dealers Keith Yam, Old Republic  
Surety Company

205 TIMOTHY WOOD, DIVISION ADMINISTRATOR, CIVIL ENFORCEMENT  
DIVISION, DEPARTMENT OF JUSTICE: (EXHIBIT C). The economy has increased  
markedly

since the original bonding requirements were instituted in 1955, and the  
Department of Justice (DOJ) feels the bond limits should be increased  
also. [QUOTE] "Consumers have been left holding the bag." Another  
problem is that there is no difference between the bond for a  
manufactured home or a travel trailer and a \$1500.00 car. Everyone has  
to get the same bond regardless of where they fit. We support an  
increase in the bond.

306 SEN. CEASE: Are there model states that we could look at to get  
some idea how they have handled this problem?

314 WOOD: To the best of my knowledge, the maximum bond in any  
state is \$30,000.

326 SEN. CEASE: Is \$15,000 worth bothering with for large dealers?

330 WOOD: Claims are not filed just by consumers. The companies  
doing business with the bond holder are in line for collection on the  
bond.

345 CHAIR DWYER: Bonds are not to protect consumers. It's there to  
protect suppliers. What kind of bond is this?

356 WOOD: This bond is all-inclusive, and we market this as a  
consumer protection issue.

363 CHAIR DWYER: I would like to know who the bond protects,  
what exclusions there are, what's the cost, how many defaults there  
have

been, and if there have been any consumers able to tap into the bonds in  
case of defaults.

371 RAY GRIBLING, OREGON AUTOMOBILE DEALERS ASSOCIATION: (EXHIBIT  
D). We ask the bill be held over even though we asked for its  
introduction.

The average bond in the United States is somewhere in the neighborhood  
of \$25,000 to \$35,000.

433 SEN. KENNEMER: How are large losses handled in other states?

448 GRIBLING: If the losses are large enough, they are just out of  
luck.

460 SEN. KENNEMER: Are R.V. dealers under the same provisions?

467 RICH KEISTER, OREGON AUTO DEALERS: R.V. dealers, the mobile home dealers, used car dealers, and the new car dealers all have a \$15,000

bond. The snowmobile and motorcycle dealers have a smaller bond, perhaps \$5,000.

TAPE 13, SIDE A

092 SEN. KENNEMER: Is this the statute that covers RV dealers?

095 KEISTER: Yes, this is comprehensive. There is no bond required in Hawaii anymore. Dealers submit a financial statement to DMV. My

members wouldn't like that approach here in Oregon. Nevada reduces your bond requirements the longer you are in business. Many of the problems you hear about are from dealers that have been in business longer than five years, so that may not be the answer. Oregon currently uses a surety bond.

135 SEN. CEASE: Is there any oversight on this program?

145 GRIBLING: I would think there would have to be some.

150 CHAIR DWYER: The bonding company also requires some information before issuing a bond.

162 SEN. ADAMS: Why do some states not have bonds?

169 GRIBLING: I don't know.

174 DENNIS KOHO, DEPARTMENT OF MOTOR VEHICLES: (EXHIBIT E). Favors. The current level of bonding requirements are inadequate to cover consumer

losses should a dealer not be able to meet his responsibilities. This bill continues language from last session that allows a letter of credit to take the place of a surety bond. Banks are not able to do this, and dealers are sometimes confused in thinking that simply a letter of credit is an option.

205 RON TERRY, PRESIDENT, OREGON INDEPENDENT AUTO DEALERS ASSOCIATION: (EXHIBIT F). Opposes the bill. Independent auto dealers are not as

wealthy as new car dealers and cannot afford a \$75,000 bond. It would put many of them out of business. Bonding companies have even told us they won't write that type of bond. Suggest a recovery fund like they

use in Virginia. Dealers would pay into a fund. The start-up costs are very modest and the protection for consumers is better.

263 KEITH YAM, OLD REPUBLIC SURETY COMPANY: We would have problems writing \$75,000 bonds. Most of the dealers we write bonds for could not afford

the increase. The bonds are renewed annually in Oregon, increasing the bond companies' risk. They are liable for the limit of the bond in each year of the three-year life of the bond. Our branch of the company writes bonds for Oregon, Washington and Idaho. The rate for our company's bonds is \$20 per thousand of the bond.

332 SEN. KENNEMER: Do all purchasers pay the same amount for these bonds?

337 YAM: Yes. Bond companies that accept a higher risk bond will charge more for them. If the bond level was increased and changed to a

continuous bond instead of annual, we could keep the risk level about the same.

352 CHAIR DWYER: What were the bonds meant to address?

373 YAM: Fraudulent misrepresentations by the dealer. It doesn't specify consumers or commercial business.

378 CHAIR DWYER: It would be helpful to see a bond. I think we can work this thing out. My concern is protecting the customer, but without

being an unreasonable burden on those providing the service.

400 DON MINER, OREGON MANUFACTURED HOUSING ASSOCIATION: (EXHIBIT G). Opposes the bill. In order to get a bond, a person has to have a net

worth of ten times the face value of the bond. We're afraid it would drive small business out of the marketplace and limit entry into the market. A better solution would be better enforcement of the law. Often dealers operate without a bond, and DMV has told us they didn't have the authority to regulate in certain situations. DMV is doing a good job of enforcing the law. Manufactured housing is looking at a recovery fund to protect consumers.

TAPE 12, SIDE B

065 SEN. KENNEMER: Manufactured homes have a financial

institution involved. I would imagine that mitigates somewhat the effects of higher bonding.

070 MINER: Yes, that's correct. Banks have an interest in making sure all the payments are accounted for.

082 SEN. KENNEMER: The bond gives the impression that the dealer is somehow more reputable, of some substance.

085 MINER: We want to see a quick response when there is a problem. DMV has been very responsive.

093 CHAIR DWYER: [QUOTE] "See you next bat time, next bat channel."

098 - Adjourns meeting at 4:03 p.m.

Submitted by:

Reviewed by:

Richard Day-Reynolds  
Administrator

Cherie Copeland Assistant

EXHIBIT LOG:

A - Testimony on SB 341 - Ron Terry - 2 pages B - Testimony on SB 341  
- Dennis Koho - 1 page C - Testimony on SB 342 - Timothy Wood - 3 pages  
D - Dealer Bond Survey - Ray Gribbling - 1 page E - Testimony on SB 342  
- Dennis Koho - 1 page F - Testimony on SB 342 - Ron Terry - 2 pages G  
- Testimony on SB 342 - Don Miner - 3 pages H - Witness registration,  
SB 341 - Staff - 1 page I - Witness registration, SB 342 - Staff - 1  
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