

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

March 10, 1993 Hearing Room 343 3:00 p.m. Tapes 29 - 30

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

MEMBER EXCUSED:

VISITING MEMBER:

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

MEASURES CONSIDERED: Possible Introduction of Committee Bills

Public Hearing and Possible Work Session: SB 447 - Appropriates
lottery moneys to Director of Veterans' Affairs for purpose
of obtaining federal moneys for construction of Oregon Veterans' Home.
SB 445 - Imposes labeling requirements on bottled
water.

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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 28, SIDE A

020 CHAIR DWYER: Calls the meeting to order at 3:12 p.m. as a
subcommittee to hear testimony.

SB 447 - APPROPRIATES LOTTERY MONEYS TO DIRECTOR OF VETERANS' AFFAIRS
FOR PURPOSE OF OBTAINING FEDERAL MONEYS FOR CONSTRUCTION OF OREGON
VETERANS' HOME - PUBLIC HEARING Witnesses: Hal Woods, American Legion
Ron Harlan, Veterans of Foreign Wars (VFW) Ed Hughes, Coalition for
Veterans' Issues Dick Lucht, United Veterans' Groups of Oregon Jon
Mangis, Oregon Department of Veterans' Affairs Lyall Fraser, Oregon
Department of Veterans' Affairs

023 ED HUGHES, COALITION FOR VETERANS' ISSUES: Introduces DICK
LUCHT, UNITED VETERANS' GROUPS OF OREGON.

025 LUCHT: Last session we introduced a bill calling for a veterans'
home.

030 CHAIR DWYER: Calls the full committee to order.

031 LUCHT: The bill passed both houses and was referred to Ways and

Means where it died. We support this bill. Due to the condition of the

General Fund, we think the logical funding would come from the Lottery.

042 LYALL FRASER, OREGON DEPARTMENT OF VETERANS' AFFAIRS: I'm here to respond to any questions the committee may have.

046 CHAIR DWYER: Are you sure we are going to be able to afford this down the line? Or is this going to be like the Governor's mansion? It's not

free.

056 FRASER: We feel very confident it will be self-sustaining. We base this on the experience of other states as well.

063 LUCHT: So long as the selection process is monitored, there should be no problem at all keeping enough people in it to avoid coming back to

the General Fund.

071 SEN. ADAMS: Are there states having to reach into their general funds to operate these homes?

079 FRASER: A number of states operate their veterans' homes out of their general funds.

081 ADAMS: How many states have these homes?

086 FRASER: 41 states operate 71 homes.

092 SEN. ADAMS: Will there be statutory definition to define accurately the client base, or will this process be defined administratively?

099 FRASER: I would imagine that would be defined by rule by the ODVA.

104 SEN. ADAMS: Are the supporters of this bill willing to give their commitment to not come back and ask for General Fund dollars in a few

years?

111 FRASER: Yes, I feel comfortable that we can assure that.

118 LUCHT: That has always been the intent of the veterans' groups in Oregon. There has never been any other intent.

122 CHAIR DWYER: Calls for other witnesses to give testimony, but each of them responded that in the interest of brevity, they would allow Dick

Lucht's testimony to speak for them.

(Tape 29, Side A) SB 447 - APPROPRIATES LOTTERY MONEYS TO DIRECTOR OF VETERANS' AFFAIRS FOR PURPOSE OF OBTAINING FEDERAL MONEYS FOR CONSTRUCTION OF OREGON VETERANS' HOME - WORK SESSION

137 MOTION: SEN. KENNEMER moves SB 447 to Trade and Economic Development by prior referral with a Do Pass recommendation.

VOTE: The measure passes 4 - 0.

(Tape 29, Side A) SB 445 - IMPOSES LABELING REQUIREMENTS ON BOTTLED WATER - PUBLIC HEARING Witnesses - Jon Stubenvoll, Oregon State Public Interest Research Group Lorna Youngs, Oregon Department of Agriculture Jim Black, Oregon Department of Agriculture Dave Leland, Oregon Health Division

164 JON STUBENVOLL, OREGON STATE PUBLIC INTEREST RESEARCH GROUP: In favor of the bill. This legislation is identical to legislation passed by the Senate in 1991. This is a multi-billion dollar industry. As much as a

third of bottled water is tap water bottled in a fancy label. There are twelve states that have regulations similar to those in this bill and

that legislation is working very well. The bill is based on model

legislation written by the International Bottled Water Association, the only bottled water trade group.

206 CHAIR DWYER: Who does the testing?

210 STUBENVOLL: The State Department of Agriculture.

215 CHAIR DWYER: How often is it done?

STUBENVOLL: I assume that would be established by rule.

CHAIR DWYER: When is the implementation date? People need enough time to comply. Do you see any problems in that regard?

STUBENVOLL: I have no problems with setting an implementation date of January next year.

229 SEN. CEASE: I'm suprised the fiscal impact says there will not be any cost to state and local government.

242 LORNA YOUNGS, DEPARTMENT OF AGRICULTURE: We agree in spirit, but this is already being dealt with in federal regulations. The Food and Drug

Administration is promulgating rules that would label bottled water.

Federal standards would prevail in this situation and supercede state standards.

259 CHAIR DWYER: What ever happened to the Tenth Amendment? Historically we've always had the power to exceed federal regulations.

269 YOUNGS: As I understand it, the labeling requirements the federal government is working on will supercede state requirements in this area. 273 SEN. CEASE: When would you expect the federal

standards to go into effect?

275 YOUNGS: The standards have already been promulgated in the Federal Register. Possibly within the next 6 - 9 months.

278 CHAIR DWYER: Will the federal standards be in effect before we could implement this bill, even with a January 1, 1994 date?

281 YOUNGS: It's a good possibility.

283 STUBENVOLL: We've been assured many proposals would be passed at the federal level in past years, and so far none have been.

291 SEN. CEASE: Why would there be no fiscal impact?

303 YOUNG: It wouldn't change what we do. It would be a continuation of current procedure as far as water testing.

315 SEN. CEASE: The bill has merit. Let's amend it to go into effect on January 1, and if the federal government passes rules that supercede the law, [QUOTE]"so be it."

321 SEN. ADAMS: I don't like legislation like this. It's over-regulation. We already have an agency doing part of this job.

337 SEN. CEASE: What we're doing here is setting a truth in advertising standard for labels and I think the public would support it.

358 CHAIR DWYER: Are there already ways to deal with someone mis-labeling a product?

365 JIM BLACK, OREGON DEPARTMENT OF AGRICULTURE: As with any food product, we can embargo any item that might be mislabeled until the label is

corrected or relabeled.

378 SEN. ADAMS: What's the point of the bill if we're already doing this?

381 CHAIR DWYER: Current law doesn't have standards for what you call bottled water.

386 BLACK: That's correct. Again reviews possible federal action.

401 CHAIR DWYER: This is a consumer issue. When you advertise that a product is something specific, it should be what it says it is.

410 SEN. KENNEMER: Asks about the definition of spring water.

TAPE 29 SIDE A

019 STUBENVOLL: That is an issue the regulators would have to define. Refers to a section of the bill that would help to define it.

028 CHAIR DWYER: I don't see anything scary in this one.

030 SEN. KENNEMER: Asks another question about the definition of spring water.

032 BLACK: Cites an example of potentially misleading labeling.

035 SEN. KENNEMER: What additional authority does this bill give you?

037 BLACK: We would adopt the Code for Federal Regulations if the rules are adopted by the federal government.

041 SEN. KENNEMER: How would this bill being passed alter what you do?

047 BLACK: It would tighten up and make bottled water comply with the same standards as municipal water supply.

057 CHAIR DWYER: How often is a municipal water supply tested, and how much does it cost?

059 DAVE LELAND, OREGON HEALTH DIVISION: There are 62 different contaminants in municipal waters. There are a variety of testing

methods and schedules that vary widely in cost. 068 CHAIR DWYER: Are these people required to test for these things?

070 LELAND: Not under our regulations because they only apply to public water supplies.

074 SEN. CEASE: Most people think there are too many regulations, except for areas like food and water. They want protections there.

Technically bottled water could be less pure than municipal supply, is that correct?

087 LELAND: That's been true in the past.

093 SEN. CEASE: Would it be fair to say that people presume they are buying something pure when they buy bottled water?

097 LELAND: That's true.

099 SEN. CEASE: So currently we have no way to make sure that's the case?

101 LELAND: I'll defer that question to Mr. Black.

103 BLACK: Partially that's true. It still has to meet food processing requirements from the drinking water standards. Under current federal

bottled water requirements bottlers must test for bacteria weekly, which is more stringent than municipal water supplies. There are other tests

as well. We require the water be safe.

126 SEN. CEASE: Let's draw up some amendments and see where we're at. This may change how I look at bottled water.

133 SEN. ADAMS: Is this a duplication of rules and regulations?

136 LELAND: In the long run, I believe that's correct. At the moment, no, but the federal rules will address this issue sufficiently.

142 SEN. ADAMS: Will this affect water coming into the state? Will there be a market implication if Oregon has this law before the feds do?

150 STUBENVOLL: Twelve states already have these laws, some of them very populous.

156 SEN. ADAMS: Are there studies that show what happened to the market when those laws went into effect?

158 STUBENVOLL: I'm not aware of any adverse market conditions that developed. It is in no way our intent to limit consumer choices, we

just don't believe that will happen.

162 SEN. ADAMS: Why would a business not be concerned with the added cost of doing business in Oregon because of the labeling requirements? Does

Idaho have a bill like this?

171 STUBENVOLL: No, they don't. But California does, and I find it difficult to believe a manufacturer will pass up 3 million potential

customers in Oregon to sell in Idaho because they don't have a labeling requirement. Presumably the additional cost will be passed on to the consumer and they can choose to buy the product or not.

182 SEN. ADAMS: We are forcing the consumer to make that increased cost choice by this labeling.

186 CHAIR DWYER: The issue here is whether the customer is being forced to buy a product that is not what he thinks it is.

190 SEN. KENNEMER: Isn't this due to a possible mislabeling situation in Portland? There was a bottler in Portland using municipal water and

mixing a small percentage of spring water and calling the whole thing spring water. My concern with this bill is that it may not solve the problem.

213 STUBENVOLL: That particular situation was not the reason for this bill. This is a growing segment of the market and OSPIRG feels that consumers should be informed.

226 YOUNGS: We agree with OSPIRG that the product and the label ought to match. We feel that the issues are going to be addressed at the federal level. We feel if the committee moves the bill forward they should do

so with a reasonable time deadline.

247 RAY DRISCOLL, CRATER LAKE PURE SPRING WATER: We think the bill has a lot of merit. In some ways it doesn't go far enough. I know for a fact

that there is quite a bit of water being sold as spring water that is actually municipal water.

266 SEN. KENNEMER: Isn't it unacceptable for that to happen?

271 CHAIR DWYER: Can you get an agreement with the Forest Service to bottle water from the National Forest?

285 DRISCOLL: I think it can be done with a use permit, and possibly a water right. Our concern is that the bottled water business is taking a real lashing lately because there is some mislabeling going on. It's

expensive to do the testing, but it's worth it. Oregon was very lax on bottling requirements when we started. Some companies are adding tap water as they oversell their supply.

359 SEN. KENNEMER: Are people using municipal water under the spring label?

362 CHAIR DWYER: If something comes in from out of the country do you regulate it?

366 BLACK: Imports are regulated by Food and Drug Administration. Canada has given us documentation. As for other countries, I don't know.

389 SEN. CEASE: Are Food and Drug regulations basically the same for food coming into the states as they are for food produced here?

399 BLACK: USDA provides inspection services for imported meats. Food and Drug is sending inspectors into other countries. Most of the developed

countries have basically the same standards as we do.

430 CHAIR DWYER: What's the deal with the Pennsylvania Department of Agriculture?

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023 BLACK: It's a revenue generating device.

031 SEN. KENNEMER: If bottlers in this state are selling adulterated" water, would you be interested, and what would the potential action be?

039 BLACK: Absolutely. Our food law states that if an item is mislabeled it can be embargoed. The problem is when there is a brand name

involved.

051 DRISCOLL: We have to define a spring. The feds have changed the standard a little bit. You can have a bore hole next to the spring.

But here is a spring ten miles away from the bottling facility and is municipal supply. People are deceived by this. The consumer should know what they're buying.

081 SEN. CEASE: Requests information for amendments.

085 BLACK: The effective date is 90 days after the final rule is published in Federal Register.

096 BARB DRISCOLL, BOTTLER: Water coming through a municipal line may have stuff in it, like chlorine, that the consumer doesn't want.

109 SEN. KENNEMER: How many times have you taken on bottlers?

114 BLACK: I'm not aware of any, but our routine inspections help inform people what may be wrong. I'm not aware of any flagrant labeling

violations.

121 SEN. CEASE: Do hospitals and other health institutions use bottled water?

129 B. DRISCOLL: Many of them use distilled water. The chlorine and sodium is removed from distilled water.

137 R. DRISCOLL: Mr. Black, what is the ruling on spring versus municipal supply?

147 BLACK: If we were to investigate a case where municipal water had been labeled spring water, we would find that the label was false and

misleading. We would tell them to change the label.

150 B. DRISCOLL: What about water imported from another state that is doing the same thing?

155 BLACK: Again, we can notify Food and Drug, and they can investigate it because it's interstate commerce.

160 SEN. ADAMS: What I'm hearing is that there is a regulatory mechanism already in place. Why are we duplicating it?

171 R. DRISCOLL: We were surprised to see this bill come up. We're not against it, but if there is existing regulation, more would be wasteful.

183 CHAIR DWYER: The standard is that the federal government is going to set a standard and we have to use theirs. We can't set a standard that

exceeds the feds.

187 BLACK: That's correct. The Nutrition Labeling and Education Act is the first federal legislation to address pre-emption of state standards of

identity. The state can adopt more stringent quality standards.

206 CHAIR DWYER: Adjourned the meeting at 4:21 p.m.

Submitted by:

Reviewed by:

Richard Day-Reynolds
Administrator

Cherie Copeland Assistant

EXHIBIT LOG:

A - Testimony on SB 447 - Dick Lucht - 3 pages B - Testimony on SB 447 - Dick Lucht - 1 page C - Testimony on SB 447 - Dick Lucht - 1 page D - Testimony on SB 447 - Mary Newmar - 1 page E - Testimony on SB 447 - Lyall Fraser - 15 pages F - Testimony on SB 445 - Jon Stubenvoll - 4 pages G - Testimony on SB 445 - Ron Davis - 2 pages H - Testimony on SB 445 - Lorna Youngs - 1 page I - Testimony on SB 445 - Dave Leland - 1 page J - Witness Registration - Staff - 2 pages