

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

April 26, 1993 Hearing Room 343 3:00 p.m. Tapes 58 - 60

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

MEMBER EXCUSED:

VISITING MEMBER:

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

MEASURES CONSIDERED: Public Hearing and Possible Work Session:
SB 446 - Allows for rent stabilization in
manufactured dwelling parks under certain circumstances. SB 915 - Allows
sale of used toilets. SB 690 - Allows custodial officer
of funds of local government to invest funds in any

corporate indebtedness, rather than just

corporate commercial paper, that matures

not later than 18 months, rather than 270 days, after purchase. SB
893 - Provides that authorized services that
manufacturer or wholesaler of alcoholic

liquors may provide to persons licensed to sell alcoholic liquors at
retail by Oregon Liquor Control Commission may only be

provided by employees of manufacturer or

wholesaler. SB 1107 - Requires automobile liability
insurance policies to provide personal injury

protection benefits and uninsured motorist protection to children
residing in

household as insured but not related to

insured.

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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 58, SIDE A 019 CHAIR DWYER: Calls the meeting to order at 3:12

p.m.

(Tape 58, Side A) SB 446 - ALLOWS FOR RENT STABILIZATION IN MANUFACTURED DWELLING PARKS UNDER CERTAIN CIRCUMSTANCES - WORK SESSION

025 MOTION: SEN. CEASE moves SB 446 to the floor with a Do Pass recommendation.

030 SEN. RASMUSSEN: I'm voting in favor of this bill because it allow for local control.

VOTE: The motion carries 3-1, Sen. Adams excused. Nay: Sen.

Kenemer. Chair Dwyer will carry.

SB 915 - ALLOWS SALE OF USED TOILETS - PUBLIC HEARING Witnesses: Jerry Green, The Wherehouse Project Steven Miller, Hippo Hardware

042 SEN. CEASE: I introduced the bill at the request of Jerry Green.

059 JERRY GREEN, THE WHEREHOUSE PROJECT: The new plumbing code prohibits the sale of certain used toilets. We need to find other uses for these

used toilets.

093 STEVEN MILLER, HIPPO HARDWARE: Do a lot of referrals to the Wherehouse Project. Testifies in support of the bill. This would allow people who

need a toilet, but can't necessarily afford a new one, to have one.

116 SEN. KENNER: What about water-saving issues?

120 GREEN: There are problems with the current water-saving toilet mandate.

139 SEN. CEASE: I strongly support the regulations for conservation. I want a sunset on this to address the water-saving issue.

157 NOTE: Sound system problems caused a temporary recess.

160 GREEN: How do we address these toilets two years from now?

168 SEN. CEASE: Right now we're not going to worry about that.

(Tape 58, Side A) SB 915 - ALLOWS SALE OF USED TOILETS - WORK SESSION

171 MOTION: SEN. CEASE moves SB 915 to the floor with a Do Pass recommendation.

VOTE: The motion carries 5-0. Sen. Cease will carry.

(Tape 58, Side A) SB 690 - ALLOWS CUSTODIAL OFFICER OF FUNDS OF LOCAL GOVERNMENT TO INVEST FUNDS IN ANY CORPORATE INDEBTEDNESS, RATHER THAN JUST CORPORATE COMMERCIAL PAPER, THAT MATURES NOT LATER THAN 18 MONTHS, RATHER THAN 270 DAYS AFTER PURCHASE - PUBLIC HEARING Witnesses: Linda Lynch, City of Eugene Frank Brawner, Oregon Bankers Association

190 SEN. ADAMS: Declares a potential conflict of interest.

194 LINDA LYNCH, CITY OF EUGENE: Testifies in support of the bill.
Reads from written testimony (EXHIBIT D).

221 CHAIR DWYER: This came out of our IGA committee in 1987, Ron.

224 FRANK BRAUNER: This gives municipalities the opportunity to invest
in a broader arena.

(Tape 58, Side A) SB 690 - ALLOWS CUSTODIAL OFFICER OF FUNDS OF LOCAL
GOVERNMENT TO INVEST FUNDS IN ANY CORPORATE INDEBTEDNESS, RATHER THAN
JUST CORPORATE COMMERCIAL PAPER, THAT MATURES NOT LATER THAN 18 MONTHS,
RATHER THAN 270 DAYS AFTER PURCHASE - WORK SESSION

242 MOTION: SEN. RASMUSSEN moves SB 690 to the floor with a Do
Pass recommendation.

245 SEN. ADAMS: Declares a potential conflict of interest.

VOTE: The motion carries 5-0. Sen. Rasmussen will carry.

(Tape 58, Side A) SB 893 - PROVIDES THAT IF RETAILER OF ALCOHOLIC
BEVERAGES ASSISTS MANUFACTURER OR WHOLESALER IN PROVIDING SERVICES TO
RETAILER, THEN RETAILER MUST MAKE SAME ASSISTANCE AVAILABLE TO ALL
MANUFACTURERS OR WHOLESALERS WHO PROVIDE SERVICES TO RETAILER - PUBLIC
HEARING Witnesses: Paul Romain, Oregon Beer and Wine Distributors

Association Mike Reed, Oregon Liquor Control Commission Stephen Kafoury,
PIA Manufacturing Mike Sills, PIA Manufacturing Kay Juran, Oregon Food
Industries Bill Cross, Oregon Winegrowers Association Janice Krem, Wine
Institute

277 PAUL ROMAIN, OREGON BEER AND WINE DISTRIBUTORS ASSOCIATION:
There are restrictions dating to 1934 on the marketing of alcoholic
beverages.

Lists some of the restrictions. Everyone gets treated the same
throughout the state. The bill is designed to address one problem. A
third party performs the service of doing schematics at the retail
level. Unless you're part of the group, you can't get the services.
Rule-making within OLCC on this issue is taking far too long. If we're
required to perform these services we'd like to get paid for it.

407 SEN. ADAMS: Are they providing these schematics for a broader
product base than just alcohol?

416 ROMAIN: They will provide different schematics for any product.

427 SEN. ADAMS: Do the schematics contain any products other than
alcohol?

432 ROMAIN: I don't think so.

SEN. ADAMS: Does this effect recycling services?

ROMAIN: No. There is no service provided there.

TAPE 59, SIDE A

039 SEN. ADAMS: Does the OLCC have problems with this?

043 MIKE REED, OREGON LIQUOR CONTROL COMMISSION: Yes. We welcome any clarification you give us on what type of service this bill entails.

048 SEN. CEASE: I'm having trouble figuring out why this bill has significance.

057 REED: This bill draws the line of who can provide services, but it just doesn't say what services.

061 SEN. CEASE: The intent is open-ended?

REED: Yes.

SEN. CEASE: Is it who makes the money? What's the significance?

REED: I can't answer that.

SEN. CEASE: Can you answer, Paul?

072 ROMAIN: A tenant of Oregon law is that there are similar levels of service regardless of size of account. We need to know what the rules

are. If this is allowed to continue the small stores won't be able to compete.

100 SEN. KENNEMER: What has the OLCC found in your investigations of PIA?

105 REED: There may be some violations of the financial assistance laws. Gives a brief explanation of the statutes. The statutes are complex and would take resources away from more important tasks of the OLCC if we

were to enforce them.

135 SEN. KENNEMER: What kind of cooperation have you received from PIA?

140 REED: PIA has responded when we have asked questions. SEN. KENNEMER: What do you want to say, Paul?

149 ROMAIN: The original contract with PIA was with Coors, and they did not renew.

161 SEN. KENNEMER: When are you going have a ruling regarding this contract?

164 REED: Hopefully soon. The contract may not violate the law, but their actions might.

173 CHAIR DWYER: You're telling me that if they're breaking the law and

they contest you, then that's a deterrent for you to enforce the law?

178 REED: No. Contested case hearings in this area would be very complex.

192 CHAIR DWYER: How do you bring them into compliance the next time if you don't levy penalties?

195 REED: These are gray areas when we talk to them they typically won't violate the that gray area again.

204 SEN. KENNEMER: PIA wanted to know if they were in compliance.

214 REED: Yes, we've had good cooperation.

227 SEN. KENNEMER: These are gray areas that may or may not be violations?

REED: Some are gray areas and some are low priority violations for us.

246 SEN. KENNEMER: I'm confused about some of these allegations.

REED: Some allegations were in gray areas and some just may or may not have occurred.

269 SEN. CEASE: This bill has to do with who gets the business.

272 SEN. KENNEMER: It has to do with shelving rights of alcoholic beverages.

280 ROMAIN: The store would decide the arrangement of products.

301 SEN. CEASE: Is the issue whether the wholesaler or the store does it?

305 CHAIR DWYER: The issue is financially assisting the store for shelf space.

311 SEN. KENNEMER: The argument is who can assist the store in arranging a display. Any rearranging must be done by the distributor of that

product.

336 ROMAIN: A store could still hire a PIA. Can distributors pay someone to do this rather than the store.

358 SEN. KENNEMER: The issue today is whether we are going to limit that service to distributors. 376 ROMAIN: A store can hire whoever they want. Who pays is the question.

384 CHAIR DWYER: You're saying only the distributor is entitled to move the product.

388 ROMAIN: The store's employees can move any product.

400 CHAIR DWYER: What about financial assistance?

405 ROMAIN: The wholesalers who don't pay for the retailer's service

feel they may be left out.

TAPE 58 SIDE B

025 SEN. CEASE: Under the bill, these services would have to be provided by the wholesaler.

ROMAIN: If the manufacturer is providing the service, it must be done by their own employees. 038 SEN. ADAMS: Is there any other company that provides this service?

040 ROMAIN: I'm not aware of any.

044 SEN. ADAMS: If we don't pass this, what are the practical ramifications?

050 ROMAIN: We anticipate that other major retailers will be doing this. In Washington, there are people going off the retailer's payroll and on to the manufacturer's.

069 STEPHEN KAFOURY, PIA MERCHANDISING: This bill has nothing to do with financial assistance or anything you've heard in the last half hour. It has to do with who can do the business. There is an anti-trust issue

here.

082 SEN. RASMUSSEN: You've told us what the bill is not; why don't you tell me what the bill is.

114 KAFOURY: There's a long list of things you can and can't do under OLCC law. The language of the bill says that this service can only be

performed by a wholesaler or manufacturer.

124 CHAIR DWYER: The question is, who should pay for those services?

130 KAFOURY: If I'm a wholesaler, under this bill, I can pay money to Anheiser-Busch but not PIA for these services.

138 CHAIR DWYER: This issue is receiving not paying.

140 KAFOURY: Under this bill, I as a grocery store, could receive the service if Anheiser-Busch paid their employees to do it, but not if they paid PIA to do it.

146 CHAIR DWYER: You talk about anti-trust, but there is something that stinks about this too.

149 KAFOURY: If there is something illegal going on then let's get to the bottom of that. 154 CHAIR DWYER: How do these services compare and what's the difference?

KAFOURY: If I want to do this on my own, I can do it.

166 SEN. ADAMS: Why shouldn't the manufacturer or wholesaler pay the store employee directly?

175 MICHAEL SILLS, PIA MERCHANDISING: We don't have any contracts with retailers. We are agents for manufacturers.

185 KAFOURY: The brewery contracts with PIA. They don't hire us.

189 SEN. CEASE: This says that only employees of the manufacturer are wholesaler can provide these services.

200 KAFOURY: That's right.

204 SEN. CEASE: Some wholesalers out there want to preclude you from infringing on their service.

208 KAFOURY: That's the bottom line.

211 SEN. ADAMS: Why wouldn't a wholesaler be able to hire a store employee to do this?

216 SILLS: That would be financial assistance.

218 SEN. ADAMS: Why is that financial assistance and your service not?

222 SILLS: My service is a 3rd party service.

SEN. ADAMS: Who's the beneficiary of the services that you provide?

SILLS: My contractors.

SEN. ADAMS: You provide schematics that benefit your contractor's products, right?

SILLS: Yes. The proposals we put forward are more credible and benefit the entire marketplace.

SEN. ADAMS: If I hired you and I was with Coors, it would be to increase the sales of Coors. If you sell someone else's products more than my products then I'm providing a benefit to the retailer. Who are you going to help increase sales for, the store or the wholesaler?

SILLS: My primary contract is to my wholesalers.

SEN. ADAMS: If I hire you then the sales of my product are going to increase?

SILLS: I would hope so.

263 CHAIR DWYER: Give me an example of your services.

275 SILLS: I can provide a hard copy of a schematic that I would provide to a retailer.

282 CHAIR DWYER: Do you move other products other than your wholesaler's product?

SILLS: Absolutely not.

290 SEN. ADAMS: Do you represent multiple wholesalers in one retail location?

297 SILLS: Yes.

SEN. ADAMS: If I'm Coors and you're providing services for Coors and Miller, and I pay you \$10,000 and Miller pays you \$1,000 am I getting a \$10,000 value schematic versus a \$1,000 value schematic?

SILLS: My service would be to do the most credible service for all the products within the case.

SEN. ADAMS: What do you mean by credible?

SILLS: My company is very technically oriented.

SEN. ADAMS: How are you going to draw schematics in a credible manner that would give me \$10,000 worth of service if the numbers say that Miller is going to sell more?

SILLS: We would try to maximize our client's space relative to what would be a realistic amount.

SEN. ADAMS: Is that a nice way of saying that you're going to give me a little more space on the shelves because I pay you more?

SILLS: Yes. It is the policy of our company to represent our clients.

SEN. ADAMS: If I want to dominate the Safeway market, I'd come to you and say, here's a million bucks. I want to see a lot of Coors sold at Safeway. Would you provide that service? SILLS: I would work with my contracted wholesaler to devise a sales

plan and let them present it to the retailer. Yes I would do that.

397 KAFOURY: If we put 5 Coors to 2 Millers on the shelf when they were actually selling the other way around, then we wouldn't be doing a very good job.

409 SEN. ADAMS: There is a margin in there. I can increase market share depending on my place on the shelf.

433 SEN. KENNEMER: There is intense competition. This is a competition driven model that regulates itself.

TAPE 59, SIDE B

028 CHAIR DWYER: Is there any other any other benefit to the retailer? Does any cash change hands here?

035 SILLS: No cash changes hands.

045 KAFOURY: The bill doesn't say what you can do, only who can do it.

049 SEN. ADAMS: There is still the issue of who gets the benefit from what you do.

051 KAFOURY: The benefit is the same, the question is who does it.

054 CHAIR DWYER: If I was paying the tab and they were putting someone else's beer on the shelf then I'd be concerned.

058 KAFOURY: Then you wouldn't hire them again.

060 SEN. ADAMS: I'm not sure I buy that. The retailer must get some benefit.

064 KAFOURY: The retailer does get a benefit, but that benefit doesn't change regardless of who provides it.

SEN. ADAMS: Why wouldn't the store use an employee to do this? Can a wholesaler provide a schematic for a competitor?

079 SILLS: Yes.

085 KAFOURY: That's the essence of this bill. The wholesalers want to do this.

089 SEN. ADAMS: Are there others in the market?

SILLS: No.

SEN. ADAMS: Why is PIA the only supplier of this service?

SILLS: There are regional companies. We are full service and we're very good at it.

SEN. ADAMS: Do you have resources and information that others don't?

SILLS: The information we utilize is available to everyone.

SEN. ADAMS: So a wholesaler could get Safeway's scan numbers?

SILLS: I can't answer that.

SEN. ADAMS: On the competition issue, PIA has a monopoly.

135 KAFOURY: We only contract with Safeway.

143 SEN. KENNEMER: PIA has offered schematic alternatives.

160 SEN. ADAMS: Why do I want a PIA to begin with if I'm a wholesaler?

169 KAFOURY: The manufacturer purchases our service.

171 SEN. ADAMS: Where I'm concerned about is my wholesaler. Why

would I hire PIA if the benefit wasn't for the retailer?

179 SILLS: I'm more cost effective.

183 SEN. ADAMS: If I'm a manufacturer concerned about my wholesaler and your only competition is wholesalers then I have no incentive to hire

you.

194 KAFOURY: No. The manufacturer's sole concern is who can sell the most beer.

198 SEN. ADAMS: PIA can do that by providing benefit to the retailers.

203 KAFOURY: That's why they use schematics.

208 SEN. ADAMS: If the benefit is to the retailer, then there is financial assistance.

KAFOURY The law presently allows that to occur. Passage of this bill

will not change law. 231 SEN. ADAMS: You can't give any advantage to retailers under the law. Can and does PIA offer services to the small stores?

241 SILLS: No.

SEN. ADAMS: Is it economically feasible for a small store to hire you?

SILLS: It's doubtful.

SEN. ADAMS: What are the number of products you need to sell for your service to be economically feasible?

SILLS: Is there any guarantee in my services? No. I'm going to supply technology needs.

SEN. ADAMS: Do you see that as a potential problem when small stores can not get the benefit of PIA services?

SILLS: I'm under contract to my breweries and wineries to do what they want me to do.

SEN. ADAMS: The larger retailers are receiving a benefit that the smaller retailers don't have access to. Isn't that financial assistance?

313 KAFOURY: That same problem would exist under this bill.

323 SEN. ADAMS: Shouldn't we include a provision to require that all retailers get equal treatment?

327 KAFOURY: We already have adequate laws.

335 SEN. ADAMS: If I was a small retailer, I ought to go to OLCC and say I need PIA's services.

345 SEN. KENNEMER: I think that's unfair. The small retailers can make accurate inventory decisions on their own.

363 CHAIR DWYER: This horse is lathered. Let's move on.

367 KAY JURAN, OREGON FOOD INDUSTRIES: The issue comes down to grocers being able to negotiate with whomever they want. It's a free market

issue. We oppose this bill.

400 SEN. RASMUSSEN: The retailers oppose this bill?

407 JURAN: That's correct.

416 BETSY BAILY, ASSOCIATED OREGON INDUSTRIES: We oppose this legislation.

TAPE 60, SIDE A

023 BILL CROSS, OREGON WINEGROWERS ASSOCIATION: Opposed to the bill.

031 JANICE KREM, WINE INSTITUTE: There are serious financial assistance questions here. This bill is a simple solution.

SB 1107 - REQUIRES AUTOMOBILE LIABILITY INSURANCE POLICIES TO PROVIDE PERSONAL INJURY PROTECTION BENEFITS AND UNINSURED MOTORIST COVERAGE TO CHILDREN RESIDING IN SAME HOUSEHOLD AS INSURED BUT NOT RELATED TO INSURED - PUBLIC HEARING Witness: John Powell, State Farm Insurance

050 SEN. RASMUSSEN: This bill clarifies a potential glitch in PIP law.

065 JOHN POWELL, STATE FARM INSURANCE: We don't have any problems with the bill.

SB 1107 - REQUIRES AUTOMOBILE LIABILITY INSURANCE POLICIES TO PROVIDE PERSONAL INJURY PROTECTION BENEFITS AND UNINSURED MOTORIST COVERAGE TO CHILDREN RESIDING IN SAME HOUSEHOLD AS INSURED BUT NOT RELATED TO INSURED - WORK SESSION

073 MOTION: SEN. RASMUSSEN moves SB 1107 to the floor with a Do Pass recommendation.

VOTE: The motion carries 3-0, Sen. Kennemer, Sen. Cease excused.

Sen. Rasmussen will carry.

080 CHAIR DWYER: Adjourns the meeting at 5:11 pm.

Submitted by:

Reviewed by:

Willie Tiffany
Administrator

Richard Day-Reynolds Assistant

EXHIBIT LOG:

A - Testimony on SB 446 - Ardyth Badger - 1 page B - Testimony on SB
446 - Robert Sloan - 3 pages C - Testimony on SB 446 - Clarence
Ahlstrom - 8 pages D - Testimony on SB 690 - Linda Lynch - 1 page E -
Testimony on SB 893 - Mike Reed - 1 page F - Witness Registration -
Staff - 5 pages