

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

May 5, 1993 Hearing Room 343 3:00 p.m. Tapes 66 - 67

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: Work Session: SB 605 -
Authorizes Public Utility Commission to award fees to
intervenors, under certain

circumstances, in ratemaking proceedings. SB 945 - Requires
persons selling prearrangement funeral plans to register with
State

Mortuary and Cemetery Board. SB 878 - Requires providers
of cellular telephone services to provide priority access to

public safety customers during declared

emergency. Public Hearing and Possible Work Session: SB 1117 -
Prohibits merchants and wholesalers from charging
unconscionably excessive

prices for essential consumer goods and

services during first 90 days of emergency or periods of abnormal
disruption of

market. SB 1118 - Requires registration of
credit services organizations with Department of Insurance and Finance.
HB 2334A- Adds offense of unlawful display or
sale of vehicle without vehicle dealer

certificate to category of offenses

subject to civil penalty. HB 3062 - Decreases certain
regulatory fees for real estate appraisers. HB 2023A- Revises
business registry functions of Secretary of State.

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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 66, SIDE A

022 CHAIR DWYER: Calls the meeting to order at 3:07 p.m.

(Tape 66, Side A) SB 945 - REQUIRES PERSONS SELLING PREARRANGEMENT FUNERAL PLANS TO REGISTER WITH STATE MORTUARY AND CEMETERY BOARD - WORK SESSION

047 CHERIE COPELAND, COMMITTEE ADMINISTRATOR: Previous concerns of Sen. Cease have been addressed

057 SEN. CEASE: Had a discussion with the sponsors of the bill and now I'm very comfortable.

067 MOTION: SEN. KENNEMER moves SB 945 to the floor with a Do Pass recommendation.

VOTE: The motion carries 3-1, Sen. Rasmussen excused. Nays:

Sen. Adams. Sen. Kennemer will carry.

(Tape 66, Side A) SB 878 - REQUIRES PROVIDERS OF CELLULAR TELEPHONE SERVICES TO PROVIDE PRIORITY ACCESS TO PUBLIC SAFETY CUSTOMERS DURING DECLARED EMERGENCY - WORK SESSION

090 COPELAND: There are amendments to this bill.

093 SEN. CEASE: There was a liability question.

100 CHAIR DWYER: I understand.

103 SEN. CEASE: The parties here have a strong determination to work this issue out this session.

110 MOTION: SEN. CEASE moves the -2 amendments.

115 CHAIR DWYER: Hearing no objection, SO ORDERED.

118 MOTION: SEN. CEASE moves SB 878 as amended to the floor with a Do Pass recommendation.

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

(Tape 66, Side A) SB 3062 - DECREASES CERTAIN REGULATORY FEES FOR REAL ESTATE APPRAISERS -PUBLIC HEARING Witness: Mike Dewey, Appraisal Institute

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

142 MIKE DEWEY, APPRAISAL INSTITUTE: Testifies in support of the bill. Reads from written testimony (EXHIBIT E).

178 SEN. KENNEMER: How come this board didn't make it into SB 166?

182 DEWEY: They have very little history.

187 SEN. KENNEMER: There is a lot of reserve money here.

197 CHAIR DWYER: We've done this budget.

199 SEN. KENNEMER: Is the budget being moved in reorganization?

201 DEWEY: There was a bill introduced in the House by Rep. Derfler that would move ACOB to the Real Estate Commission.

(Tape 66, Side A) SB 3062 - DECREASES CERTAIN REGULATORY FEES FOR REAL ESTATE APPRAISERS -WORK SESSION

216 MOTION: SEN. CEASE moves HB 3062 to the floor with a Do Pass recommendation.

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

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

(Tape 66, Side A) SB 1117 - PROHIBITS MERCHANTS AND WHOLESALERS FROM CHARGING UNCONSCIONABLY EXCESSIVE PRICES FOR ESSENTIAL CONSUMER GOODS AND SERVICES DURING FIRST 90 DAYS OF EMERGENCY OR PERIODS OF ABNORMAL DISRUPTION OF MARKET - PUBLIC HEARING Witness: Sen. Frank Roberts, District 9

243 SENATOR FRANK ROBERTS, DISTRICT 9: Testifies in support of the bill.

300 SEN. KENNEMER: What's the rationale behind determination by a judge and not a jury?

306 SEN. ROBERTS: These are matters of fact, not policy.

(Tape 66, Side A) SB 1118 - REQUIRES REGISTRATION OF CREDIT SERVICES ORGANIZATIONS WITH DEPARTMENT OF INSURANCE AND FINANCE - PUBLIC HEARING Witness: Sen. Frank Roberts, District 9

329 SENATOR ROBERTS, DISTRICT 9: Testifies in support of the bill. Reads from written testimony (EXHIBIT F).

416 CHAIR DWYER: Do you have amendments?

420 SEN. ROBERTS: Yes, in concept. We need to give the administrator a little more power in determining trust accounts and the bond is too

high.

TAPE 67, SIDE A

024 CHAIR DWYER: Would you have an objection if we referred SB 1117 to Judiciary?

ROBERTS: I'd like it to come out of here.

CHAIR DWYER: Can we loan it to Judiciary?

ROBERTS: Let me check the bill with the Judiciary Committee.

CHAIR DWYER: Okay.

(Tape 67, Side A) SB 1117 - PROHIBITS MERCHANTS AND WHOLESALERS FROM CHARGING UNCONSCIONABLY EXCESSIVE PRICES FOR ESSENTIAL CONSUMER GOODS AND SERVICES DURING FIRST 90 DAYS OF EMERGENCY OR PERIODS OF ABNORMAL DISRUPTION OF MARKET - PUBLIC HEARING Witnesses: Timothy Wood, Oregon Department of Justice Gene Ebersole, Oregon Department of Justice

049 TIMOTHY WOOD, OREGON DEPARTMENT OF JUSTICE: Testifies in support of the bill. Reads from written testimony (EXHIBIT G).

091 CHAIR DWYER: We can't put a footnote in the bill.

093 WOOD: I understand, the intent is to have the Attorney General's office fully compensated.

096 CHAIR DWYER: We have those intentions.

100 SEN. CEASE: It could always go to the E-Board.

110 SEN. ADAMS: Would the recent drought be a state of emergency that would apply here?

114 WOOD: It could be.

SEN. ADAMS: If there is a drought and the price of a product unrelated to the drought went up, would that be subject to this bill?

WOOD: The answer is yes, the way the bill is drafted.

SEN. ADAMS: If the price of Twinkies goes up five times during the drought, there could be action taken?

WOOD: Yes, we would try to provide burden shifting. If there costs have increased, that's a different situation and the price increase can be justified.

SEN. ADAMS: There doesn't have to be a direct link between the state of emergency and the price increase? I'm concerned about the broad base here. I would like a link between the emergency and the price increase.

WOOD: We discussed including a private cause of action. When we look at the intent the link is clear.

182 SEN. RASMUSSEN: My opposition to the bill lies in the trial. I believe in messing around with jury trials. We shouldn't have a court deciding

price fixing. This bill isn't narrow enough for me.

202 WOOD: If that is the hold-up, we are providing for injunctive relief. We enforce the anti-trust laws. The market doesn't necessarily work in

the short run. We don't want the disaster to be chance for price gouging.

236 SEN. KENNEMER: What's an emergency here?

242 WOOD: When the Governor declares one.

248 SEN. KENNEMER: Is there experience in using "unconscionably excessive"?

WOOD: Yes. In New York case law.

275 GENE EBERSOLE, DEPARTMENT OF JUSTICE: This bill only applies only to essential goods and services, not Twinkies.

296 SEN. KENNEMER: Would it apply if we had an earthquake and I need plywood to cover my windows?

300 EBERSOLE: Yes, if had an extra cost to ship supplies in, that would be allowed. Judge would be more fair to the businessman than a jury.

320 SEN. ADAMS: What's the objection to adding a 90 day clause?

328 WOOD: We're talking about the blip of time of an emergency. A time limit may not be a bad idea.

SEN. ADAMS: I'm concerned about the clause, "Any other disruption to the market". What's the intention here?

WOOD: It's not the intent to focus exclusively on an abnormal disruption. The key is, what caused it.

SEN. ADAMS: I'm concerned about the last qualifier. WOOD: We need to read these all together.

SEN. ADAMS: What would happen if you took out "other cause" and limit the scope?

WOOD: We'd be happy to look at that issue.

399 SEN. CEASE: We need such a bill. A judge would be fine with me. I am concerned about the lack of standards. How do we address the issue of

legitimate price increases? Can we make a distinction in the types of emergencies?

TAPE 66, SIDE B

028 CHAIR DWYER: We can put on a 90 day clause.

034 EBERSOLE: Let's look at Florida where it's been a year and

there is still terrible circumstances. Putting a cap on it is not the answer.

This only applies when there is an impact on the consumer.

046 SEN. ADAMS: Using price increases to ration water may get caught in this bill.

060 CHAIR DWYER: Take notes about our concerns. We support the idea, but have some reservations about the bill.

064 WOOD: That's why we looked forward to this hearing.

068 SEN. KENNEMER: I doubt a reasonable judge would count price increases in water during a drought as excessive. We are trying to provide a

public good.

080 SEN. CEASE: There's a possibility of making political hay out of this. I think a judge would be preferable. Do we need any standards other

than what's in the bill?

091 WOOD: We are talking about a substantial price increase. Perhaps we can narrow it.

104 SEN. CEASE: Are the penalties excessive?

108 WOOD: We don't want to have the penalty to be a cost of doing business.

116 SEN. CEASE: We want the bill to pass. Let's be reasonable with the penalties.

124 SEN. RASMUSSEN: This language is value laden. I would prefer to see some days in the bill and some definitions.

132 CHAIR DWYER: Does everyone know their charge on this bill?

136 COPELAND: What's the change to a class C misdemeanor do?

140 WOOD: We wanted penalties with substance.

145 CHAIR DWYER: I don't fear this bill. This bill is like the RICO statutes. Make it politically possible to pass or we'll just have a

good idea whose time will never come.

(Tape 66, Side B) SB 1118 - REQUIRES REGISTRATION OF CREDIT SERVICES ORGANIZATIONS WITH DEPARTMENT OF INSURANCE AND FINANCE - PUBLIC HEARING Witnesses: Lawrence Winthrop, Consumer Credit Counselling Timothy Wood, Oregon Department of Justice Frank Brawner, Oregon Bankers Association

163 LAWRENCE WINTHROP, CONSUMER CREDIT COUNSELLING: Testifies in support of the bill. Reads from prepared testimony (EXHIBIT H-I).

200 CHAIR DWYER: Hands the gavel to Sen. Kennemer and leaves the committee.

232 SEN. ADAMS: Do you have a recommendation for the civil penalties?

237 TIMOTHY WOOD, OREGON DEPARTMENT OF JUSTICE: Whatever will work. Testifies in support of the bill. Reads from written testimony (EXHIBIT K).

245 CHAIR KENNEMER: Hands the gavel to Sen. Dwyer.

253 SEN. ADAMS: What would be an appropriate amount for a surety bond?

260 WOOD: In other states, the more recent the law, the larger the bond. The stakes have gone up and we are flexible.

282 CHAIR DWYER: Are the bonds available?

288 WOOD: If there are 37 states with this law, then someone is writing bonds. Maybe you post the bond or write a letter of credit.

304 CHAIR DWYER: We can't require something that people can't get.

309 WINTHROP: These operators will come to the states with the lowest penalties.

317 SEN. KENNEMER: I use your organization and appreciate the work you do.

327 SEN. CEASE: Are there reputable groups in this business?

336 WINTHROP: Yes, they're non-profit groups.

350 SEN. CEASE: Is there any reason why people can't do this as a business?

361 WOOD: No, but they are advertising that they can erase bad credit.

374 SEN. CEASE: What other services can they provide people?

380 CHAIR DWYER: Hands the gavel to Sen. Kennemer and leaves the committee. WOOD: They charge for a free service. Should a person charge for a

service that's available for free.

SEN. CEASE: We are not prohibiting them, we're just regulating them.

WOOD: The fly-by-night operators will go out of business.

411 CHAIR KENNEMER: Gives an example of a legitimate credit service.

TAPE 67, SIDE B

025 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Testifies in support of the bill. Proposes conceptual amendments.

051 CHAIR KENNEMER: This bill needs work, let's get all the parties together to draft some amendments and then bring it back.

062 BRAUNER: For the record, surety bonds are indeed available at the level here.

071 CHAIR KENNEMER: You folks have your charge.

(Tape 67, Side B) HB 2334A - ADDS OFFENSE OF UNLAWFUL DISPLAY OR SALE OF VEHICLE WITHOUT VEHICLE DEALER CERTIFICATE TO CATEGORY OF OFFENSES SUBJECT TO CIVIL PENALTY - PUBLIC HEARING Witnesses: Wanda Wahus, Oregon Independent Auto Dealers

Association Ron Terry, Oregon Independent Auto Dealers Association Don Miner, Oregon Manufactured Housing Association

091 WANDA WAHUS, OREGON INDEPENDENT AUTO DEALERS ASSOCIATION: Introduces RON TERRY, OREGON INDEPENDENT AUTO DEALERS ASSOCIATION. 097 TERRY: Testifies in support of the bill. Reads from prepared testimony (EXHIBIT L).

130 COPELAND: Makes reference to the Dennis Koho letter (EXHIBIT B).

136 DON MINER, OREGON MANUFACTURED HOUSING ASSOCIATION: We support the bill.

140 SEN. ADAMS: This doesn't have to do with individuals selling their own cars?

143 MINOR: No. Private citizens can sell five cars in a calendar year.

(Tape 67, Side B) HB 2334 - ADDS OFFENSE OF UNLAWFUL DISPLAY OR SALE OF VEHICLE WITHOUT VEHICLE DEALER CERTIFICATE TO CATEGORY OF OFFENSES SUBJECT TO CIVIL PENALTY - WORK SESSION

156 MOTION: SEN. CEASE moves HB 2334 to the floor with a Do Pass recommendation.

VOTE: The motion carries 3-0, Sen. Dwyer, Sen. Rasmussen excused. Sen. Cease will carry.

(Tape 67, Side B) HB 2023-A - REVISES BUSINESS REGISTRY FUNCTIONS OF SECRETARY OF STATE - PUBLIC HEARING Witness: Jan Sullivan, Secretary of State

184 JAN SULLIVAN, SECRETARY OF STATE: Testifies in support of the bill. Reads from written testimony (EXHIBIT M).

230 SEN. CEASE: Are there no proposed amendments?

235 SULLIVAN: No.

237 SEN. KENNEMER: What about the \$1 million dollars going to the General Fund?

255 SULLIVAN: What this bill does is to allow funds in the ending balance to be transferred to the general fund.

273 SEN. ADAMS: My concern is that fee payers will want some direct benefit from the fees.

280 SULLIVAN: The money in the account has accumulated over many years.

283 SEN. ADAMS: I'm just trying to understand the basis of concern.

291 SEN. KENNEMER: We need to decide whether to refund or just use the fees. Obviously, the fees are too high.

300 SULLIVAN: We would run out of funds if we didn't continue with these fees.

309 SEN. ADAMS: Refunds in this case are logistically impossible. I'm comfortable with putting the money in the General Fund.

(Tape 67, Side B) HB 2023-A - REVISES BUSINESS REGISTRY FUNCTIONS OF SECRETARY OF STATE - WORK SESSION

334 MOTION: SEN. CEASE moves HB 2023-A to the floor with a Do Pass recommendation. VOTE: The motion carries 3-0, Sen. Dwyer, Sen. Rasmussen excused. Sen. Adams will carry.

(Tape 67, Side B) HB 2334-A - ADDS OFFENSE OF UNLAWFUL DISPLAY OR SALE OF VEHICLE WITHOUT VEHICLE DEALER CERTIFICATE TO CATEGORY OF OFFENSES SUBJECT TO CIVIL PENALTY - WORK SESSION 365 MOTION: SEN. CEASE moves to rescind the Do Pass recommendation to the floor and to send HB 2334-A to Judiciary Committee with a

Do Pass recommendation.

VOTE: The motion carries 4-0, Sen. Dwyer excused.

376 CHAIR KENNEMER: adjourns at 4:55 p.m.

Submitted by:

Reviewed by:

Willie Tiffany
Administrator

Richard Day-Reynolds Assistant

EXHIBIT LOG:

A - Witness Registration - Staff - 5 pages B - Testimony on HB 2334 - Dennis Koho - 1 page C - -2 Amendments to SB 878 - Staff - 1 page D - Hand-Engrossed SB 878 - Staff - 1 page E - Testimony on HB 3062 - Mike Dewey - 1 page F - Testimony on SB 1118 - Sen. Roberts - 1 page G - Testimony on SB 1117 - Tim Wood - 2 pages H - Testimony on SB 1118 - Lawrence Winthrop - 5 pages I - Testimony on SB 1118 - Lawrence Winthrop - 6 pages J - Testimony on SB 1118 - Jan Sefloy - 1 page K -

Testimony on SB 1118 - Tim Wood - 2 pages L - Testimony on HB 2334 -
Ron Terry - 1 page M - Testimony on HB 2023 - Jan Sullivan - 6 pages