

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

May 24, 1993 Hearing Room 343 3:00 p.m. Tapes 76 - 78

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

MEMBER EXCUSED:

VISITING MEMBER: Rep. Cynthia Wooten, District 41

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

MEASURES CONSIDERED: Work Session: SB 457 - Provides
that exclusion in motor vehicle liability insurance policy
that provides

coverage in excess of amount required to

comply with financial responsibility laws is invalid if policy does not
explicitly provide required coverage. SB 1095 - Requires
sellers of certain residential real property to submit to buyer
property

disclosure statement or disclaimer of

warranty for "as is" purchases. SB 1097 - Requires real
estate licensee to provide disclosure form to buyer and seller
at

specified times during real estate

transaction. SB 933 - Directs State Parks and
Recreation Department to establish accommodation in state park in

Lane County for persons without permanent

address. SB 642 - Regulates automobile brokers. SB 560 -
Prohibits sale or use of certain smoke detectors. SB
844 - Exempts persons with certain mental or
emotional disorder diagnosed by physician

from responsibility for obligation arising

from dialing pay-per-call telephone number.

[--- 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 76, SIDE A

020 CHAIR DWYER: Calls the meeting to order at 3:08 p.m.

(Tape 76, Side A) SB 457 - PROVIDES THAT EXCLUSION IN MOTOR VEHICLE LIABILITY INSURANCE POLICY THAT PROVIDES COVERAGE IN EXCESS OF AMOUNT REQUIRED TO COMPLY WITH FINANCIAL RESPONSIBILITY LAWS IS INVALID IF POLICY DOES NOT EXPLICITLY PROVIDE REQUIRED COVERAGE - WORK SESSION

028 CHERIE COPELAND, COMMITTEE ADMINISTRATOR: Addresses Sen. Kennemer's concern about invalid exclusions.

037 SEN. KENNEMER: Ms. Eymann has done a good job in addressing my concerns.

045 MOTION: SEN. KENNEMER moves the -2 amendments.

048 CHAIR DWYER: Hearing no objection, SO ORDERED.

050 MOTION: SEN. KENNEMER moves SB 457 to the floor as amended with a Do Pass recommendation.

VOTE: The motion carries 4-0, Sen. Cease excused. Sen. Rasmussen will carry.

(Tape 76, Side A) SB 933 -DIRECTS STATE PARKS AND RECREATION DEPARTMENT TO ESTABLISH ACCOMMODATIONS IN STATE PARK IN LANE COUNTY FOR PERSONS WITHOUT PERMANENT ADDRESS - WORK SESSION Witnesses: David Wright, Oregon Parks and Recreation Department Rep. Cynthia Wooten, District 41 Richie Weinman, City of Eugene Tina Engelbretson, Citizen Wayne Ford, Eugene-Springfield Homeless Action Coalition

068 DAVID WRIGHT, OREGON PARKS AND RECREATION DEPARTMENT: Reads from prepared testimony in opposition to the bill (EXHIBIT C).

115 CHAIR DWYER: Asks about Armitage park's current regulations.

127 WRIGHT: Answers the question.

134 CHAIR DWYER: What do you suggest we do with these people?

WRIGHT: I don't think there is an easy answer.

143 SEN. KENNEMER: What are the campground rates? 146 WRIGHT: \$16 per day.

158 REP. CYNTHIA WOOTEN, REP DISTRICT 41: Reads from prepared testimony in support of the measure (EXHIBIT D).

225 CHAIR DWYER: Would the users be willing to participate in the policing and maintenance?

235 REP. WOOTEN: Absolutely. Explains the sunset provision. We're not proposing permanent housing and there shouldn't be a problem with

federal authorities.

297 SEN. KENNEMER: Is there going to be a charge for camping.

303 WOOTEN: Yes. A small fee.

SEN. KENNEMER: Do we need a law to do this?

WOOTEN: No. But, we have gotten no cooperation from the Parks Service.

335 CHAIR DWYER: I wish you would have told me about their spirit of cooperation when I was doing their budget.

341 SEN. CEASE: This will use about a third of the existing park?

355 WOOTEN: About 30 cars.

SEN. CEASE: What impact will this have on the park users?

WOOTEN: This will occur in the winter months, in a separate portion of the park. It's our intend to educate the public.

SEN. CEASE: What happens if they trash the park?

WOOTEN: We are working with the city of Eugene to assure that the park isn't trashed.

SEN. CEASE: I have mixed feelings about this, but I would agree to try it as a pilot project. Should we include Eugene in the bill?

WOOTEN: We want Eugene as a partner. They are here to speak to that.

SEN. CEASE: We have to do this in a straight-forward and honest way. So when the agency comes back with a report it's an honest one.

WOOTEN: An evaluation process has always been our intent I don't think an amendment is needed.

SEN. CEASE: We need to walk into this with our eyes open.

450 SEN. KENNEMER: It also has a sunset clause. TAPE 77, SIDE A

028 RICHIE WEINMAN, CITY OF EUGENE: Eugene has been working on this for some time and we have been very successful with housing projects in the past. Described the Centennial Car Camp.

059 CHAIR DWYER: Will the city will take an active role.

063 WEINMAN: As far as I know, yes.

065 CHAIR DWYER: Are the county commissioners on board?

066 WEINMAN: There is support there.

070 COPELAND: How many cars are in the Centennial camp?

WEINMAN: We have 30 spaces.

CHAIR DWYER: Whiticker School has 30 homeless kids.

083 SEN. KENNEMER: My initial reaction was "this is a disaster", but I have been pleasantly surprised.

089 TINA ENGEBRETSON, CITIZEN: Lived at Armitage. It's a waste of humanity to have no hope. This could give us a chance. There were a lot of

families at Armitage.

117 WAYNE FORD, EUGENE - SPRINGFIELD HOMELESS ACTION COALITION: I've been trying for years to find a place for people to camp. Supports the

amendments. Addresses some of the concerns expressed by opponents: vandalism, recreational land replacement, camp administration.

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

168 CHAIR DWYER: Hearing no objection, SO ORDERED.

170 SEN. KENNEMER: Should we change relating clause and sponsors?

172 COPELAND: We did.

178 MOTION: CHAIR DWYER moves to delete the reference to the manufactured home owners association and add at the request of

Rep. Wooten, Sen. Dwyer and Rep. Dominy.

181 CHAIR DWYER: Hearing no objection, SO ORDERED.

191 MOTION: SEN. CEASE moves SB 933 as amended to the floor with a Do Pass recommendation

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

Adams. Sen. Dwyer will carry.

(Tape 77, Side A) SB 1095 - REQUIRES SELLERS OF CERTAIN RESIDENTIAL REAL PROPERTY TO SUBMIT TO BUYER PROPERTY DISCLOSURE STATEMENT OR DISCLAIMER OF WARRANTY FOR "AS IS" PURCHASES - WORK SESSION Witnesses: Ray Shaw, Oregon Association of Relators Steve Hawes, Deputy Commissioner Walt Gowell, Oregon State Bar Frank Brawner, Oregon Bankers Association Bill Cross, Building Owners and Managers Association Patricia Ferrell-French, Oregon Consumer League

228 COPELAND: On pg. 3 of the -3 amendments, there was an omission on line 4,5 and 6.

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

246 RAY SHAW, OREGON ASSOCIATION OF REALTORS: Gives overview of the

work group that worked out the amendments. We changed the definition to

include real property.

289 MOTION: SEN. CEASE moves the -3 amendments.

293 CHAIR KENNEMER: Hearing no objection, SO ORDERED.

302 SHAW: Continues the overview of the amendments. Sales by financial institutions are exempted.

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

359 CHAIR KENNEMER: So noted.

360 SHAW: Continues overview.

392 SEN. CEASE: Are we in agreement with these conceptual agreements and ready to move this bill?

395 CHAIR KENNEMER: Yes.

409 SHAW: Continues testimony.

435 STEVE HAWES, REAL ESTATE AGENCY: [QUOTE] "There is no specific wording. We have all agreed to them in concept. Sue Hannah in

Legislative Counsel can draft it. Essentially it says that when the holder of these earnest moneys, either the escrow agent or the real estate broker, release them on the signed statement of one of the two parties that the escrow agent or broker will be released from liability from that lease of funds only. We all agree that that's apt."

TAPE 76, SIDE B

035 MOTION: SEN. CEASE moves the conceptual amendments.

039 CHAIR KENNEMER: Hearing no objection, SO ORDERED.

048 WALT GOWELL, OREGON STATE BAR: Gives explanation of (EXHIBIT I).

058 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: Explains definition of financial institutions.

068 SHAW: This citation on page 11, line 10 needs to be amended.

072 MOTION: SEN. CEASE moves change in amendments

081 CHAIR KENNEMER: Hearing no objection SO ORDERED.

084 SHAW: Proposes amendments to pg 8, line 16.

103 SEN. CEASE: Has problem with the word "misrepresentation."

110 BRAUNER: Explains the reference.

160 SEN. CEASE: It has to be clear what the recourse would be.

163 GOWEL: Page 11 sec. 9, covers it.

165 SEN. CEASE: Thank you.

174 SHAW: [QUOTE] "Perhaps this will clarify things. If the bank itself, If a bank or lending institution decides to give a disclosure, we need

some corrections. In Mr. Sherman's letter we have the quoted paragraph I just read into the record, we go down to the third line, it starts "inaccuracy contained;" Keep "in", delete 'the'. insert 'another party's. That line would now read 'inaccuracy contained in another party's disclosure statement. Then also, after statement add the phrase 'required by this act.' I think that's the amendment we would want to put into page 10, lines 10 - 16, whatever LC would want to do. That would make it parallel with the substantive law and allow a bank or lending institution to give its own disclosure statement."

191 COPELAND: Is that page 8, line 16?

SHAW: Just page 8, line 16.

193 BRAUNER: [QUOTE] "Thus, an institution, a lender selling its own property would render its own disclosure statement as a seller. That's

provided for in the adjustments to the amendment that's been submitted to you."

199 MOTION: SEN. CEASE moves the conceptual amendments.

201 SEN. KENNEMER: Amends language. [QUOTE] "On page 8 of the amendments, line 16, to be added as an addition here something to the effect 'and no such financial institution shall be bound or by or have any liability

with respect to any representation misrepresentation omission error or inaccuracy contained in another party's disclosure statement or any amendment to the disclosure statement required by this act.'

COPELAND: [QUOTE] " So 'required by this act' goes at the end of that?"

SEN. KENNEMER: [QUOTE] "Is the 'required by this act' go at the very end?"

COPELAND: [QUOTE] "I thought it went in between 'statement' and 'or'."

223 SHAW: [QUOTE] "I see. I prefer it go in after 'disclosure statement' as opposed to the end.

CHAIR KENNEMER: [QUOTE] "So we'll put it in after 'disclosure statement'. So it would read 'disclosure statement required by this act or any amendment to the disclosure statement.'

SHAW: Correct.

SEN. KENNEMER: Hearing no objections, SO ORDERED.

SHAW: [QUOTE] "Now Mr. Chairman, to be consistent with that, we have to go back to the substantive part of the bill, page 10, line 19, and make the same insertions. After the word 'in' delete 'the' and add, substitute 'another party's '. And continue on down...

SEN. KENNEMER: Lets start again.

COPELAND: Line 19?

SHAW: Page 10, line 19. [QUOTE] "We now need to parallel up the language from the form and where we see 'inaccuracies contained in the disclosure statement', delete the word 'the' and insert 'another party's'. And then after 'disclosure statement' add 'required by this act.'"

231 MOTION: SEN. CEASE moves to amend the language.

235 SEN. KENNEMER: Hearing no objection, SO ORDERED.

239 BILL CROSS, BUILDING OWNERS AND MANAGERS ASSOCIATION: Hand engrossed -6 amends exempts commercial properties from disclosure statement.

254 MOTION: SEN. CEASE moves the -6 amendments.

257 SEN. KENNEMER: Hearing no objection, SO ORDERED

263 SHAW: Page 10, line 2. [QUOTE] Delete, "if a seller issues", and "it".

275 MOTION: SEN. CEASE moves the amendments as conceptually stated

282 SEN. KENNEMER: Hearing no objection, SO ORDERED.

287 SHAW: Explains the -3 amendments as hand engrossed.

295 MOTION: SEN. CEASE moves the amendments.

302 SEN. KENNEMER: Hearing no objection, SO ORDERED.

307 PATRICIA FERRELL-FRENCH, OREGON CONSUMER LEAGUE:
Withdraws -4 amendments.

313 SEN. CEASE: Asks if any of this deals with land use.

325 HAWES: There's nothing out of the ordinary.

333 GOWELL: There isn't any land use issue here.

342 MOTION: SEN. CEASE moves SB 1095 to the floor as amended
with a Do Pass recommendation.

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

(Tape 76, Side B) SB 1097 - REQUIRES REAL ESTATE LICENSEE TO PROVIDE
DISCLOSURE FORM TO BUYER AND SELLER AT SPECIFIED TIMES DURING REAL
ESTATE TRANSACTION - WORK SESSION Witnesses: Ray Shaw, Oregon
Association of Realtors Steve Hawes, Real Estate Agency Walt Gowell,
Oregon State Bar Patricia Ferrell-French, Oregon Consumer League

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

360 SEN. KENNEMER: Hearing no objection, SO ORDERED.

391 RAY SHAW, OREGON ASSOCIATION OF REALTORS: Explains amendments.

TAPE 77, SIDE B

050 STEVE HAWES, REAL ESTATE AGENCY: Speaks to dual agency. It
remains an option.

067 WALT GOWELL, OREGON STATE BAR: Testifies in support of the
amendments. Opposes dual agency.

092 SHAW: Explains the consumer amendments. These amendments
will alleviate realtors concerns about first substantive contact.

112 COPELAND: Is this national consumer league language?

116 SHAW: No.

124 SEN. KENNEMER: Would this allow an open house walk through?

131 SHAW: That is our intent.

138 PATRICIA FERREL-FRENCH, OREGON CONSUMER LEAGUE: Asks for
clarification on prospects.

146 HAWES: States concerns with new language. Suggests moving in
concept.

177 COPELAND: Why make the changes?

182 SHAW: Other than the last sentence there is no change.

194 HAWES: Suggests movement of last sentence into section 6.

201 MOTION: SEN. CEASE: Moves the conceptual amendments

216 CHAIR KENNEMER: Hearing no objection, SO ORDERED.

220 MOTION: SEN. CEASE moves SB 1097 as amended to the floor with a Do Pass recommendation.

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

Sen. Kennemer will carry.

(Tape 77, Side B) SB 642 - REGULATES AUTOMOBILE BROKERS - WORK SESSION
Witnesses: Ray Gribling, Oregon Automobile Dealers Association Terry Leggert, Department of Justice Dennis Koho, Department of Motor Vehicles

249 RAY GRIBLING, OREGON AUTOMOBILE DEALERS ASSOCIATION: Proposes and explains the -2 amendments.

270 TERRY LEGGERT, DEPARTMENT OF JUSTICE: Proposes -3 amendments. Gives an overview of the reasons for the amendments.

290 CHAIR KENNEMER: Hands gavel to Sen. Dwyer.

329 SEN. ADAMS: What's class "C" felony?

334 LEGGERT: 30-90 days in jail plus a fine.

341 SEN. ADAMS: I support the bill, but I'm concerned about adding another felony to the statute when we are decriminalizing other penalties to

save jail space.

LEGGERT: Discusses felony

401 CHAIR KENNEMER: Do you want to change it to a misdemeanor?

404 SEN. ADAMS: Yes.

410 CHAIR KENNEMER: What do you think Ray?

414 GRIBLING: Let's change it to a misdemeanor.

TAPE 78, SIDE A

020 SEN. CEASE: What's the penalty for a misdemeanor?

027 DENNIS KOHO, DEPARTMENT OF MOTOR VEHICLES: A year in jail or \$2,500 or both.

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

041 CHAIR KENNEMER: Hearing no objection, SO ORDERED.

049 MOTION: SEN. CEASE moves -3 amendments with conceptual changes.

057 CHAIR KENNEMER: Hearing no objection, SO ORDERED.

066 MOTION: SEN. CEASE moves the bill as amended to the floor

with a Do Pass recommendation.

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

086 CHAIR KENNEMER: Adjourns the meeting at 5:05 pm

Submitted by:

Reviewed by:

Willie Tiffany
Administrator

Richard Day-Reynolds Assistant

EXHIBIT LOG:

A - Amendments to SB 457 - Staff - 1 page B - Amendments to SB 933 - Staff - 1 page C - Testimony on SB 933 - David Wright - 3 pages D - Testimony on SB 933 - Rep. Wooten - 4 pages E - Testimony on SB 933 - Michael McCall - 2 pages F - Article on SB 933 - Michael McCall - 1 page G - Amendments to SB 1095 - Staff - 8 pages H - Amendments to SB 1095 - Bill Cross - 1 page I - Amendments to SB 1095 - Frank Brawner - 1 page J - Amendments to SB 1097 - Staff - 9 pages K - Amendments to SB 1097 - Ray Shaw - 1 page L - Amendments to SB 1097 - John Colman-Pinning - 2 pages M - Amendments to SB 642 - Staff - 1 page N - Amendments to SB 642 - Staff - 1 page O - Testimony on SB 642 - Terry Leggert - 15 pages P - Witness Registration - Staff - 4 pages