

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

June 4, 1993 Hearing Room 343 3:00 p.m. Tapes 84 - 85

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

MEMBER EXCUSED: Sen. Ron Cease

VISITING MEMBER: Rep. Bill Markham, District 46 Rep. Jim Whitty,
District 47

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

MEASURES CONSIDERED: Public Hearing and Possible Work Session: HB
3261-A Establishes temporary benevolent license issued
without fee to each nonprofit

participant at special event arranged by

benevolent organization. HB 2954-A Allows holder of winery
license issued by Oregon Liquor Control Commission to sell malt
beverages at retail for consumption on or off premises. HB 2536
Extends filing time for affidavit after placing of
surplus lines insurance by

licensee. HB 2690-A Specifies award of attorney fees
only to prevailing party in action to enforce

provisions of wholesale distribution

agreement.

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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 84, SIDE A

017 CHAIR DWYER: Calls the meeting to order at 3:05 p.m.

(Tape 84, Side A) HB 3261-A - ESTABLISHES TEMPORARY BENEVOLENT
RESTAURANT LICENSE ISSUED WITHOUT FEE TO EACH NONPROFIT PARTICIPANT AT

SPECIAL EVENT ARRANGED BY BENEVOLENT ORGANIZATION - PUBLIC HEARING
Witnesses: Rep. Jim Whitty, District 47

026 JIM WHITTY, DISTRICT 47: Testifies in support of HB 3261. Reads from written testimony (EXHIBIT A).

(Tape 84, Side A) HB 3261-A - ESTABLISHES TEMPORARY BENEVOLENT RESTAURANT LICENSE ISSUED WITHOUT FEE TO EACH NONPROFIT PARTICIPANT AT SPECIAL EVENT ARRANGED BY BENEVOLENT ORGANIZATION - WORK SESSION

060 MOTION: SEN. RASMUSSEN moves HB 3261-A to the floor with a Do Pass recommendation.

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

(Tape 84, Side A) HB 2954-A - ALLOWS HOLDER OF WINERY LICENSE ISSUED BY OREGON LIQUOR CONTROL COMMISSION TO SELL MALT BEVERAGES AT RETAIL FOR CONSUMPTION ON OR OFF PREMISES - PUBLIC HEARING Witnesses: Rep. Bill Markham, District 46 Paul Romain, Oregon Beer and Wine Distributors Bill Nelson, Oregon Wine Growers Association

076 REPRESENTATIVE BILL MARKHAM, DISTRICT 46: Testifies in support of HB 2954A. 095 CHAIR DWYER: Asks about the amendment.

099 MARKHAM: Has no problem with the amendment.

107 PAUL ROMAIN, OREGON BEER AND WINE DISTRIBUTORS: Testifies in support of the bill. Has a problem with the second portion of the bill which is

going to be taken out.

137 BILL NELSON, OREGON WINE GROWERS ASSOCIATION: Reads (EXHIBIT C).

(Tape 84, Side A) HB 2954-A - ALLOWS HOLDER OF WINERY LICENSE ISSUED BY OREGON LIQUOR CONTROL COMMISSION TO SELL MALT BEVERAGES AT RETAIL FOR CONSUMPTION ON OR OFF PREMISES - WORK SESSION

146 MOTION: SEN. RASMUSSEN moves to remove sec. 2.

150 CHAIR DWYER: Hearing no objection, SO ORDERED.

153 MOTION: SEN. RASMUSSEN moves HB 2954-A to the floor as amended to floor with a Do Pass recommendation. VOTE: The motion carries 4-0, Sen. Cease excused. Sen. Adams

will carry.

(Tape 84, Side A) HB 2690-A - SPECIFIES AWARD OF ATTORNEY FEES ONLY TO PREVAILING PARTY IN ACTION TO ENFORCE PROVISIONS OF WHOLESALE DISTRIBUTION AGREEMENT - PUBLIC HEARING Witnesses: Paul Romain, Oregon Beer and Wine Distributors Gary Conkling, Blitz-Weinhard Wally Von Valkenburg, Blitz-Weinhard John Powell, Miller Brewing Company

173 PAUL ROMAIN, OREGON BEER AND WINE DISTRIBUTORS ASSOCIATION: Testifies in support of the bill. Reads from written testimony (EXHIBIT D).

361 COPELAND: Would you repeat what the last section does?

364 ROMAIN: Makes the language identical to 474.005. This bill just defines brand.

380 SEN. RASMUSSEN: Is there any other purpose besides market share for marketing the item in this way?

402 ROMAIN: No.

SEN. RASMUSSEN: Why would you use a different distributor?

ROMAIN: There are different reasons, but you could always use the Franchise Law. Summarizes parts of the franchise law.

SEN. RASMUSSEN: Who is this beer competing with?

ROMAIN: It depends on how it's priced.

TAPE 85, SIDE A

051 GARY CONKLING, BLITZ WEINHARD: Testifies in opposition to HB
269 0-A. Introduces (EXHIBIT E,F,G).

148 SEN. RASMUSSEN: Why market this with Weinhard on the label?

CONKLING: To gain market share. The question about distributors is a good one. This company needs an aggressive distributor to compete. To answer your third question, it's going to compete against Bud and Miller.

182 CHAIR DWYER: Are the two different labels distributed by the same distributor?

187 CONKLING: Yes. But, they don't have to be.

192 SEN. RASMUSSEN: Why do you think this bill has an intent different than the one stated by the proponent?

198 CONKLING: Gives information concerning marketing and distribution rights.

227 WALLY VON VALKENBURG, BLITZ - WEINHARD: Testifies in opposition of the bill. Bill eliminates interbrand competition. Manufacturers may want

to use more than one distributor. This bill could violate anti-trust law.

291 CHAIR DWYER: No, it wouldn't.

295 VON VALKENBURG: Only if it has the same label.

310 SEN. RASMUSSEN: Is the holding of the GTE case that can't have is both inter and intra-brand competition?

330 VON VALKENBURG: The ruling is that some territorial situations can be procompetitive. Comments on previous testimony. The law here is very

complex.

374 SEN. RASMUSSEN: Asks again about inter and intrabrand competition.

VON VALKENBURG: Yes. That is what we have here. The effect of this bill is to restrict competition.

SEN. RASMUSSEN: Makes comments regarding the role of the state in restricting competition in this area.

TAPE 84, SIDE B

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

012 CHAIR DWYER: So noted.

016 JOHN POWELL, MILLER BREWING COMPANY: Testifies in opposition to the bill. Suggested an amendment to resolve a concern they have. We would

like the right to choose a distributor.

056 CHAIR DWYER: Makes a suggestion for an amendment. Business decisions are often made without regard for fairness.

078 POWELL: In this situation the products aren't competing.

084 CHAIR DWYER: I don't buy the argument. Would my suggested amendment satisfy you?

088 POWELL: We need an amendment that says, when this occurs, manufacturers can choose.

095 ROMAIN: We put into this law, under brand extension, that the labels must incorporate all or part of the distinguishing features that

resemble the other brand to some significant degree.

104 SEN. KENNEMER: This is my fourth session on this committee. It has been our consistent policy to give distributors exclusive rights to

brands.

117 CONKLING: Oregon's law provides exclusive territories for brands.

131 SEN. KENNEMER: Disagrees with part of CONKLING'S testimony.

146 CONKLING: I'm just referring to the situation where distributors only distribute one product.

153 CHAIR DWYER: Have you tried test marketing? Why would you want a different distributor?

162 CONKLING: We don't want to undercut our distributors, but this is a different product.

CHAIR DWYER: You don't know what kind of success you'll have under this law.

CONKLING: Will we be prohibited in making a decision in the best interest of our product?

182 POWELL: Concludes testimony.

193 SEN. RASMUSSEN: Do you have any language for an amendment?

POWELL: I think there is language.

203 ROMAIN: Reads 474.025 (franchise law). I can't imagine where this could be a problem.

257 POWELL: Gives examples that could constitute problems under the law.

(Tape 84, Side B) HB 2960-A - SPECIFIES AWARD OF ATTORNEY FEES ONLY TO PREVAILING PARTY IN ACTION TO ENFORCE PROVISIONS OF WHOLESALE DISTRIBUTION AGREEMENT - WORK SESSION

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

295 MOTION: SEN. KENNEMER moves HB 2960-A to the floor with a Do Pass recommendation.

300 SEN. RASMUSSEN: I'm not convinced this violates anti-trust law so I'm going to vote aye today.

VOTE: The motion carries 4-0, Sen. Kennemer will carry.

(Tape 84, Side B) HB 2536 - EXTENDS FILING TIME FOR AFFIDAVIT AFTER PLACING OF SURPLUS LINES INSURANCE BY LICENSEE - PUBLIC HEARING
Witnesses: Wade Coykendall, Surplus Line Association of Oregon Richard McGavolk, Oregon Department of Insurance and

Finance

325 WADE COYKENDALL, SURPLUS LINE ASSOCIATION OF OREGON:
Testifies in support of the bill. Reads from written testimony (EXHIBIT H).

354 CHAIR DWYER: What's the problem with 30 days?

362 WADE: There is not enough time.

385 RICHARD MCGAVOK, OREGON DEPARTMENT OF INSURANCE AND FINANCE:
Testified in favor of the bill. This would fix an oversight in the law.

403 SEN. KENNEMER: Is this an administrative problem?

412 CHAIR DWYER: The problem is, it takes the insurance companies longer than 30 days to comply.

(Tape 84, Side B) HB 2536 - EXTENDS FILING TIME FOR AFFIDAVIT AFTER PLACING OF SURPLUS LINES INSURANCE BY LICENSEE - WORK SESSION

415 MOTION: SEN. KENNEMER moves HB 2536 to the floor with a Do Pass recommendation.

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

434 CHAIR DWYER: Adjourns the meeting at 4:30 p.m.

Submitted by:

Reviewed by:

Willie Tiffany
Administrator

Richard Day-Reynolds Assistant

EXHIBIT LOG:

A - Testimony on HB 3261 - Rep. Whitty - 2 pages B - Testimony on HB 3261 - Sen. Bradbury - 1 page C - Testimony on HB 2954 - Donna Souza-Postles - 1 page D - Testimony on HB 2690 - Paul Romain - 2 pages E - Memorandum on HB 2690 - Gary Conkling - 6 pages F - Testimony on HB 2690 - Gary Conkling - 2 pages G - Testimony on HB 2690 - Gary Conkling - 4 pages H - Testimony on HB 2536 - Wade Coykendoll - 2 pages