

SENATE COMMITTEE ON
JUDICIARY

February 10, 1993 Hearing Room C
1:00 p.m. Tapes 21-23

MEMBERS PRESENT: Sen. Dick Springer, Chair
Sen. Neil Bryant
Sen. Jeannette Hamby
Sen. Bob Shoemaker
Sen. Catherine Webber

MEMBERS EXCUSED: Sen. Grattan Kerans

STAFF PRESENT: Bill Taylor, Committee Counsel
Kirk Bailey, Committee Clerk

ISSUES DISCUSSED: Public Hearing

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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.

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TAPE 21, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 1:00pm. Offers introductory comments due to high attendance by public.

SB 334: Adds person in possession of firearm or other dangerous weapon within school zone to category of persons subject to prosecution.

WITNESSES:

NIKKI SQUIRE, SUPERINTENDENT, HILLSB ORO UNION HIGH SCHOOL DISTRICT
TED FARO, BANKS SCHOOL DISTRICT
IRV NICOLAI, SUPERINTENDENT OF SCHOOLS, FOREST GROVE
NORMA PAULUS, SUPERINTENDENT OF PUBLIC INSTRUCTION
JOHN NICHOLS, OREGON SHOOTING ASSOCIATION
GEORGE MCNEIL, NATIONAL RIFLE ASSOCIATION
AUGIE ENRIQUEZ, OREGON FIREARMS TRADE ASSOCIATION
JACK BIERWIRTH, SUPERINTENDENT, PORTLAND PUBLIC SCHOOLS
ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION
LARRY PETERSON, TUALATIN HIGH SCHOOL
ROD INGRAM, OREGON FISH AND WILDLIFE
STEVE DONELL, OREGON PRO-GUN CIVIL RIGHTS LOBBY
DIRK PEARSON, CITIZEN
RICHARD GRAFF, CITIZEN
KEVIN STERRIT, GUN OWNERS OF AMERICA
CRIMINAL JUSTICE COUNCIL

JACQUELINE BLOOM, CITY OF PORTLAND
DAVID GILLESPIE, SUPERINTENDENT, REEDVILLE SCHOOL DISTRICT

041 NIKKI SQUIRE: Submits and reviews testimony in support of the bill

(EXHIBIT A). Not aware of any opposition.

112 TED FARO: Testifies in support of bill.

>School zone is consistent with Drug Free School zone mandated by federal legislation.

126 IRV NICOLAI: Testifies in support of bill.

>135,000 students in 17,000 school districts nationally carry guns to school.

>Due to Measure 5, faced with dismissing 25-30 personnel while at same time hiring sworn duty officers to protect students and teachers.

198 NORMA PAULUS: Not sure if this bill is the right answer, but it is a

possible answer for situation in schools.

>Reviews examples of guns in schools.

>Problem is state-wide.

>Comments on opposition.

288 SEN. HAMBY: For committee's attention, the bill includes all dangerous

weapons in addition to firearms.

312 JOHN NICHOLS: Testifies in opposition to the bill.

>Opposed to bill as the vehicle for addressing problem.

>Propose augmenting Trespass 164.265 as a better vehicle.

>Measure goes beyond federal law.

337 SEN. HAMBY: Highlights amendments 334-1 (EXHIBIT B), speaks to

concerns.

>Cites Memorandum from Baron Sheldahl, U.S. Attorney's office clarifying

U.S. Code. (EXHIBIT C).

>Intent was to insert federal language.

375 GEORGE MCNEIL: Testifies in opposition to the bill.

>Concerned about 1000 feet restriction and lack of exemptions.

394 SEN. HAMBY: 334-1 amendments address these concerns.

405 AUGIE ENRIQUEZ: Testifies in opposition to bill.

>Notes there are fire-arm manufacturers in Oregon.

>Bill has zoning problems. In the Portland area only three retail firearm outlets do not come within 1000 ft. of schools.

434 SEN. HAMBY: Do customers come in with loaded guns?

ENRIQUEZ: Generally no. Suggests amendment about property of the

school.

TAPE 22, SIDE A

041 JACK BIERWIRTH: Testifies in support of the bill.
>Concerned with section 2.2(d). Appears to allow people with permit to
carry gun on school grounds, opposed to allowing guns under permit.

083 SEN. SHOEMAKER: Objection not assuaged by subsection 3, which
requires
reporting of concealed weapon under permit?

BIERWIRTH: Only partially, don't like the idea of concealed guns.
Permits are fine, just no guns in schools.

098 SEN. SHOEMAKER: Response to previous testimony about retail outlets
in
Portland being within 1000 ft. of schools?

BIERWIRTH: Haven't had the chance to consider. Distance wasn't
recognized as a zoning problem with retail stores in the area.

121 SEN. SHOEMAKER: Worthwhile to revisit? How far out from school
should
we protect.

BIERWIRTH: 1000 ft. not a great distance.
>School officials expected to protect kids until they get home.

150 SEN. HAMBY: Clarifies that current U.S. Code speaks to 1000 feet.

157 BILL TAYLOR, COMMITTEE COUNSEL: Cites handout and quotes U.S.
Code
(EXHIBIT D).

165 SEN. SHOEMAKER: Only loaded guns?

TAYLOR: There are certain exemptions including guns unloaded and in
locked container.

188 SEN. SHOEMAKER: What is included in dangerous weapons?

194 ROSS SHEPARD: Testifies in generally in support of the bill.
>Concerned with dangerous weapon provision. Cites code definition
which
includes anything readily capable of causing death or serious physical
injury.
>Examples include: boiling water, vehicles, cowboy boots, etc.

207 SEN. HAMBY: U.S. Code or Oregon?

SHEPARD: No ORS.
>Proposes amendment to line 26 by inserting after "who", "either
knowingly or intentionally".

219 LARRY PETERSON: Testifies in support of the bill.
>Provides yearbook exhibit to committee to illustrate individuals
injured or affected by guns in schools.

257 ROD INGRAM: Testifies in opposition to the bill.
>Concerned about effect on legal hunters.
>Gun and hunter safety classes taught on school grounds. Exception
should be made for this program.

272 SEN. HAMBY: Bill language does cover those situations.

292 STEVE DONELL: Testifies in opposition to bill.
>Bill doesn't address juveniles.
>Submits proposed amendment (EXHIBIT E).

337 DIRK PEARSON: Testifies in opposition to bill.
>Most activity addressed in measure is already illegal. Penalties for
existing provisions should be stiffened.
>Less restrictive means should be utilized.
>Measure is overreaching in its scope.

366 RICHARD GRAFF: Submits written testimony in opposition to the
bill
(EXHIBIT F).
>Concerned about lack of input.
>Questions necessity.

462 SEN. SHOEMAKER: What are existing laws and reach? Requests staff
and
witnesses to provide information.

489 SEN. BRYANT: Provides clarification on process for Graff.
Ample
opportunity remains to have input on the bill.

TAPE 21, SIDE B

035 KEVIN STERRIT: Testifies in opposition to the bill.
>Bill does not address problem.
>Unduly affects people behaving in a lawful fashion.
>Need to stiffen penalties for existing law.

066 SEN. HAMBY: Wants to prevent children from bringing weapons to
school.

STERRIT: 1000 foot law doesn't reach intent.

076 SEN. HAMBY: Attempting to toughen law.

sterrit: Perhaps we can do so without hurting people who are obeying
the law.

079 CHAIR SPRINGER: Presents hypothetical situation - should property
owner
be able to require guest as condition of entry not carry a concealed

weapon even with a permit?

STERRIT: Yes, but doesn't apply to school situation.

>Deprives private individual of right to protect themselves.

CRIMINAL JUSTICE COUNCIL submits written testimony only. (EXHIBIT G).

JACQUELINE BLOOM, CITY OF PORTLAND, submits written testimony only in support of the bill. (EXHIBIT Q)

DAVID GILLESPIE, SUPERINTENDENT, REEDVILLE SCHOOL DISTRICT submits written testimony only in support of the bill. (EXHIBIT R).

SB 240: Eliminates statute of ultimate repose for product liability actions

and negligence actions arising out of death, injury or damage

resulting from silicone or saline breast implant or other implant

or

injection containing silicone.

WITNESSES:

DIANA GODWIN, WILLIAMS AND TROUTWINE

MIKE WILLIAMS, WILLIAMS AND TROUTWINE

SENATOR TRICIA SMITH

105 DIANE GODWIN: Submits and reviews written testimony and amendments

(EXHIBITS H, H/1, I and J).

123 MIKE WILLIAMS: Testifies in support of the bill.

143 CHAIR SPRINGER: Would allegation of fraud or misrepresentation or

wilful failure to disclose information if correct reverse statute of ultimate repose?

WILLIAMS: Under 9th Circuit decision in Dalcon shield case, no.

>Against medical provider probably yes.

>In Oregon after eight years a claim is barred even for fraud.

159 SEN. WEBBER: Describe medical effect to women?

WILLIAMS: Typically characterized by slow developing auto-immune disease.

>Causes fatigue, muscle pain, interference with memory and cognitive ability, deterioration of organs.

>Appears to be a spectrum of effect.

181 SEN. BRYANT: How many women in Oregon?

WILLIAMS: Not aware of Oregon specific statistics.

>Estimated 1 million women nationally who have implants.

>Estimate: at least 10 thousand currently have silicone, 5-10,000 who

previously had implants.

207 SENATOR TRICIA SMITH: Testifies in support of the bill.
>Part of Oregon Womens Health and Wellness Act of 1993.
SB 395: Authorizes payment of accelerated death benefits under life
insurance
policy to policy owner or certificate holder.

WITNESSES:

KEITH BURNS, AMERICAN COUNCIL OF LIFE INSURANCE
MARY ALICE VIORK, INSURANCE DIVISION
LOUIS LITTLEHOUSEN, INSURANCE DIVISION

232 KEITH BURNS: Submits and reviews written testimony (EXHIBIT K).

298 SEN. SHOEMAKER: Ever a third player under a policy, insured,
policy
owner, and beneficiary?

BURNS: Some contracts where that can occur, specially designed for
that
purpose.

305 SEN. SHOEMAKER: Should this accommodate that situation?

BURNS: Nothing can happen unless patient gives authority to the
doctor.

311 SEN. SHOEMAKER: Hypothetical situation - beneficiary who was
neither
insured or policy owner. Insured dies and you want to provide benefits
to spouse, this bill wouldn't permit?

BURNS: That's correct, could be frustrated again.
>Contract between owner and insurance company.

342 MARY ALICE VIORK: Responds to questions.
>Circumstances where spouse could be allowed to collect benefits.
>Benefits always go to beneficiary anyway.

365 SEN. SHOEMAKER: Language has problems. Doesn't seem to
cover
situations you are concerned about.

BURNS: Comments that factual situation and answers may not be on same
track.

>Owner can change beneficiaries anytime up to the demise of insured.
>Language is in the model language of the Rules adopted by the

National
Association of Insurance Commissioners.

407 TAYLOR: Concerned about use of the word beneficiary in the bill.

430 LOUIS LITTLEHOUSEN: Testifies in support of the bill.
>Intention of bill is that benefit should go to policy owner, not
insured.

451 VIORK: Testifies in support of bill. Willing to work on amendments
but
there is some urgency to bill.

468 SEN. HAMBY: Committee has the alternative to allow bill to move on
and
catch up with it on the House side.
CHAIR SPRINGER: Okay, are there any amendments?

474 TAYLOR: No amendments.

475 MOTION: CHAIR SPRINGER moves SB 395 be sent to the floor with a DO
PASS
recommendation.
VOTE: In a roll call vote all members present vote AYE. SEN. KERANS is
excused.

CHAIR SPRINGER: The motion CARRIES.

491 CHAIR SPRINGER will designate a carrier on the floor.

497 CHAIR SPRINGER: Returns to SB 240.

SB 240: Eliminates statute of ultimate repose for product liability
actions
and negligence actions arising out of death, injury or damage
resulting from silicone or saline breast implant or other implant
or
injection containing silicone.

WITNESSES:

NORMA GANT, CITIZEN
SHERRY BURBACH, CITIZEN
BRIDGET FLANAGAN, CITIZEN
LAURIE WIMMER, OREGON COMMISSION FOR WOMEN
LAUREN MOUGHON, WOMENS RIGHTS COALITION
JIM GARDNER, PHARMACEUTICAL MANUFACTURERS ASSOCIATION
BETSY BAILEY, ASSOCIATED OREGON INDUSTRIES

TAPE 22, SIDE B

046 NORMA GANT: Testifies in support of the bill.
>Describes medical history and impact of silicone related health
problems.

196 SHERRY BURBACH: Testifies in support of the bill.
>Describes medical history and silicone related health problems.

231 SEN. WEBBER: Assume this is a progressive disease? Silicone is
still
in the body?

GANT: No way of knowing how much silicone in my system. Migration is
unknown factor.

255 SEN. HAMBY: During 1980 replacement any evidence of leakage?

GANT: No.

257 SEN. HAMBY: Silicone component of saline? And that's the problem?

GANT: Yes. Yes.

268 SEN. HAMBY: Evidence of silicone travel even though its a component
of
saline?

GANT: Yes.

285 BRIDGET FLANAGAN: Submits and reviews written testimony in support
of
the bill (EXHIBIT L).

467 SEN. HAMBY: Did physician warn you of possible reaction?

FLANAGAN: No. Implants are saline.

476 SEN. HAMBY: Silicone component to your implants?

FLANAGAN: Envelope is hardened silicone.

480 SEN. HAMBY: Did doctor share possibility of health problems with
you?

FLANAGAN: No.

TAPE 23, SIDE A

028 LAURIE WIMMER: Submits and reviews written testimony in support of
the
bill (EXHIBIT M).

041 LAUREN MOUGHON: Submits and reviews written testimony (EXHIBIT N).

062 JIM GARDNER: Testifies in opposition to section 5 of the bill.
No
position on substance of the bill.
>Section 5 does more than codify existing case law.

084 SEN. BRYANT: Do you have some suggestions for sect. 5?

GARDNER: Yes, if subsection 2 deleted, then substance would remain.
Will work with counsel on amendments.

090 BETSY BAILEY: Testifies in opposition to section 5 but not substance
of
the bill.
>Will inordinately affect Oregon industries.

105 SEN. WEBBER: Are you recommending that person have no right of
action
on product placed in their body if it becomes symptomatic after
statute
of ultimate repose?

BAILEY: Recommendation is not to change statute because it effects all

product liability actions in the state. No objection to amendment to address products in peoples bodies.

HB 2222: Transfers authority of Board of Directors over corrections industries to Director of Department of Corrections.

WITNESSES:

DENIS DOWD, DEPARTMENT OF CORRECTIONS
IRV FLETCHER, AFL/CIO

134 DENIS DOWD: Submits and reviews written testimony in support of the bill (EXHIBIT O).

157 IRV FLETCHER: Submits and reviews written testimony in opposition to the bill (EXHIBIT P).

184 SEN. HAMBY: Strong advocate of encouraging corrections industries to pursue such ventures.

FLETCHER: Agree but not to the extent it puts people out of work. Unions cannot compete with inmate labor.

204 CHAIR SPRINGER: Adjourns hearing at 3:12pm.

Submitted by:

Reviewed by:

Kirk Bailey
Assistant

Bill Taylor
Administrator

EXHIBIT LOG:

A - Testimony on SB 334 - Nikki Squire - 1 page
B - Amendments to SB 334 - Sen. Hamby - 1 page
C - Testimony on SB 334 - Sen. Hamby - 1 pages
D - ORS references for SB 334 - Staff - 1 page
E - Amendment to SB 334 - S. Donell - 1 page
F - Testimony on SB 334 - Richard Graff - 1 page
G - Testimony on SB 334 - Criminal Justice Council - 1 page
H - Testimony on SB 240 - Diana Godwin - 5 pages
H/1 - Amendments to SB 240 - Diana Godwin - 2 pages
I - Amendments to SB 240 - Diana Godwin - 1 page
J - Testimony on SB 240 - Diana Godwin - 2 pages
K - Testimony on SB 395 - Keith Burns - 2 pages
L - Testimony on SB 240 - Bridget Flanagan - 7 pages
M - Testimony on SB 240 - Laurie Wimmer - 1 page
N - Testimony on SB 240 - Lauren Moughon - 1 page
O - Testimony on HB 2222 - Denis Dowd - 1 page
P - Testimony on HB 2222 - Irv Fletcher - 1 page
Q - Testimony on SB 334 - Jacqueline Bloom - 1 page

R - Testimony on SB 334 - David Gillespie - 1 page