

SENATE COMMITTEE ON
JUDICIARY

March 24, 1993 Hearing Room C
1:00 p.m. Tapes 64-66

MEMBERS PRESENT: Sen. Dick Springer, Chair
 Sen. Jeannette Hamby
 Sen. Karsten Rasmussen
 Sen. Bob Shoemaker
 Sen. Gordon Smith
 Sen. Catherine Webber

MEMBERS EXCUSED:

STAFF PRESENT: Karen Quigley, Committee Counsel
 Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Public Hearing on SB 371, SB 147, SB 154, SB 458, SB 464,
SB
493

Work Session on SB 212.

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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 64, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 1:07 pm.

Public Hearing

SB 147: Repeals statutes relating to collection agency businesses and
debt
 consolidating agencies.

WITNESSES:

CECIL MONROE, DEPARTMENT OF INSURANCE AND FINANCE
STEVE ROSO, VANGUARD ADJUSTMENT COMPANY
LAWRENCE WINTHROP, CONSUMER CREDIT COUNSELING SERVICE
JIM MARKEE, OREGON COLLECTORS ASSOCIATION

LEWIS FINLEY, FAMILY FINANCIAL PLANNERS, INC., submits written testimony
only
in opposition to the bill (EXHIBIT D).

010 CECIL MONROE: Submits and reviews written testimony in support of
the
bill (EXHIBIT A).

097 STEVE ROSO: Testifies in opposition to the bill.
>Current law already addresses issue.

167 LAWRENCE WINTHROP: Submits and reviews written testimony in
opposition
to the bill (EXHIBIT B).

216 JIM MARKEE: Submits and reviews written testimony in opposition to
the
bill (EXHIBIT C).

284 SHOEMAKER: Regarding unlawful practice of law, if collection
agency
shoulders the debt as its own asset, then they are not representing
another party?

WINTHROP: That is how they attempted to circumvent the law
previously.

294 SHOEMAKER: Even though the owed the account they took it
without
recourse?

WINTHROP: Question about recourse.

296 SHOEMAKER: Incomplete assignment?

WINTHROP: Correct. Prevalent in the early 1970's.

303 MARKEE: Believes there are ways to fix bill and suggests
possible
amendments.
>This is a policy question for committee, does committee want anyone
to
become a collection agency without proving financial responsibility.

333 CHAIR SPRINGER: Requests further information on the impact of
Messmer
v. Carter.

MONROE: Will review.

348 CHAIR SPRINGER: Only need a clarification.

SB 371: Requires certain out-of-state companies to pay commissions
owed
sales representative within 14 days after termination.

WITNESSES:

BRUCE ROSE, PORTLAND APPAREL ASSOCIATION

369 BRUCE ROSE: Submits and reviews written testimony in support of
the
bill (EXHIBIT E).

434 SHOEMAKER: Familiar with "long arm statute"?

ROSE: If representative filed under that statute, might win in Oregon

but without punitive damages.

444 SHOEMAKER: Is claim that representative can't sue in Oregon accurate?

ROSE: However, assets from manufacturer are out of state.

457 SHOEMAKER: Collection of Foreign Judgements Act does apply. Point is to allow court to impose punitive damages?

ROSE: Correct.

468 SHOEMAKER: Punitive damages cover the cost of chasing manufacturer into different jurisdiction?

ROSE: Yes. Bill also defines sales representatives positions.

TAPE 65, SIDE A

039 SHOEMAKER: Laws in other states are similar to this?

ROSE: Substantially, yes.

>Bill is the same as a bill passed by House in 1991 session.

049 CHAIR SPRINGER: What is the scope of the problem?

ROSE: Significant problem. Customers have numerous stories reflecting the problem.

058 CHAIR SPRINGER: How many in this occupation?

ROSE: Difficult to estimate but there are several hundred in his organizations. Several hundred in other organizations.

SB 493: Expands definition of "racketeering activity" to include violation of wildlife laws.

WITNESSES:

SENATOR DWYER

MAJOR ROY HYDER, OREGON STATE POLICE

082 SENATOR DWYER: Testifies in support of the bill.

>Strengthens laws protecting wildlife in Oregon.

130 MAJOR ROY HYDER: Submits and reviews written testimony in support of the bill (EXHIBIT F & G).

260 SHOEMAKER: What are the most serious offenses?

HYDER: Describes cases involving illegal trafficking and sale of bear fur and pelts, Oregon bobcat fur and pelts and elk meat.

>Describes case in Coos Bay involving fraudulent applications for

hunting licenses and tags throughout western states.

329 SHOEMAKER: Common for some families to poach by hunting out of season,

what would happen in that case?

HYDER: Racketeering requires it happen more than once. If it happened more than once and could be connected to conspiracy and racketeering activity then action could be taken.

345 SHOEMAKER: Does there have to be commercial gain?

HYDER: No. Commercial gains are subject to forfeiture.

347 SHOEMAKER: What if individual hunts for own use regularly out of season?

HYDER: Not inclined to prosecute under these statutes. Need to prove conspiracy and monetary gains.
>Checks and balances is ensured by discretion of district attorney who are not disposed to filing frivolous cases.

374 HAMBY: Ten most wanted is interesting, is that shared with other states?

HYDER: Yes, but not sure which ones. Oregon's is very successful.

CHARLES WOOSLEY, CITIZEN: Submits written testimony only in support of the bill (EXHIBIT L).

SB 154: Repeals Pawnbrokers Act.

WITNESSES:

PAUL ROMAN, H & B JEWELRY AND LOAN

CECIL MONROE, DEPARTMENT OF INSURANCE AND FINANCE

PATRICK NELSON, PORTLAND POLICE BUREAU

402 CECIL MONROE: Submits and reviews written testimony in support of the bill (EXHIBIT H).

TAPE 64, SIDE B

042 PAUL ROMAIN: Testifies in opposition to the bill.

>Problem is not licensed pawnbrokers.

>Pawnbrokers are prepared to pay increased fees if money is at issue.

089 PATRICK NELSON: Submits and reviews written testimony in opposition to the bill (EXHIBIT I).

139 SHOEMAKER: Why not just let Portland do it with interest rates set by

legislature?

NELSON: You set interest rates?

144 SHOEMAKER: Set interest rates in statute and let cities
handle
implementation and enforcement?

NELSON: Difficult for jurisdictions to implement due to lack of
resources.

155 SHOEMAKER: But state doesn't control second hand stores anyway?

NELSON: No, but they do control pawn shops.

157 SHOEMAKER: Problem is with second hand shops, doesn't understand
how
the state relinquishing control is going to hurt the situation?
>Why can't this be done locally?

165 ROMAIN: Problem is the lack of consistency and the use of the name.
>State regulates using individuals name for bank, same situation with
pawnshops.

205 HAMBY: Problems understanding the rationale?

NELSON: Shops give the idea that property can be retrieved when it
cannot. Provides example.

251 HAMBY: What did you do to follow-up?

NELSON: Started public awareness campaign, issued warrants and made
arrests.

269 HAMBY: So result is an increase of fees? Aren't enough pawn shops
to
carry burden?

NELSON: Many second hand shops don't want to register as pawnshops
because of requirements.

298 SHOEMAKER: Is there a way for pawnbrokers to pick up the cost of
the
Act?

ROMAIN: Industry has offered to pay increase in fee over last two
sessions.
>Willing to pay for their own regulation, but not for second hand
stores.

327 SHOEMAKER: All state has to do is refer call to police?

ROMAIN: Correct.

330 SHOEMAKER: Concerned about cost of pawn brokers perhaps industry
can help pick up the burden?

ROMAIN: Agrees. Cost isn't in administering the act.

357 SHOEMAKER: What is your opinion of previous witnesses' arguments?

MONROE: Clarifies program administration.
>Already charge pawn brokers a yearly fee.
>Program will be best administered at lower level.

426 SHOEMAKER: What about second hand shops changing names to pawn
shops?

MONROE: Already being widely used.

456 CHAIR SPRINGER: Bill has subsequent referral to Sen. Cohen
committee.

Organization bills generally are being sent there.
>Discusses committee business.

TAPE 65, SIDE B

SB 464: Allows juvenile department that has filed petition against
child to dismiss petition or hold it in abeyance pursuant to informal
disposition agreement.

WITNESSES:

TIM TRAVIS, JUVENILE RIGHTS PROJECT

MARK MCDONNELL, OREGON DISTRICT ATTORNEY'S ASSOCIATION

040 TIM TRAVIS: Submits and reviews written testimony in support of
the bill (EXHIBIT J).

091 MARK MCDONNELL: Submits and reviews written testimony in opposition
to the bill (EXHIBIT K).

139 SHOEMAKER: Has there been an effort to negotiate?

MCDONNELL: Yes, would support if current statute is amended to remove
person felonies.

146 TRAVIS: Notes cooperation between himself and McDonnell on
expungement issues. Purpose of this bill is not to affect expungement
>Opposed to removing some person felonies.
>Juvenile court counselors should make decisions about crimes by
children, not district attorney's.

174 HAMBY: No objection to SB 404?

TRAVIS: Clarifies bill reference.
>Serious problems with SB 404.

SEN. HAMBY: Bill to reverse what 1991 session did?

TRAVIS: Describes bill. (McDonnell notes bill is HB 3372).
>Proponents of that bill advocate for expungement of sex offender records.

193 MCDONNELL: Comments on robbery example described by Travis.
Committee recesses for fire drill.

202 CHAIR SPRINGER: Reconvenes committee at 2:53 pm.

MCDONNELL: Continues previous testimony on HB 3372.

221 CHAIR SPRINGER: Discusses committee business and schedule.
SB 458: Permits juvenile court order requiring child to pay restitution to
be docketed as civil judgment.

WITNESSES:

CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION
BILL LINDEN, STATE COURT ADMINISTRATOR

251 CHARLIE WILLIAMSON: Submits and reviews written testimony with
amendments from Bill Linden in support of the bill (EXHIBIT M).

293 SHOEMAKER: Is there any way to do this and allow normal protections for
juveniles?

WILLIAMSON: Order doesn't have to be entered at disposition.

307 SHOEMAKER: Does bill provide that it would be entered until later
on?

WILLIAMSON: Believes decision should be left to judges discretion.

319 SHOEMAKER: Your point is that juvenile records are public record
anyway
so it doesn't matter?

WILLIAMSON: Correct.

321 CHAIR SPRINGER: Impression is that judges aren't imposing
restitution

orders that often.

>What is your experience?

WILLIAMSON: Haven't done background interviews on the issue.

>General understanding that people feel it is needed and that Linden
supports.

SB 212: Exempts from execution amount received by debtor under
certain
agreements for sale of real or personal property to the extent

that amounts are to be paid to another person.

351 COUNSEL QUIGLEY: Reviews bill and possible misunderstandings on
the bill.
>Clarifies for committee that bill has been reconsidered and is before
the committee for further action if necessary.

371 WALTER GOWELL: Describes the original purpose and effect of the
bill.
>Committee is faced with a policy decision.
>Describes necessary amendments.

440 SEN. SHOEMAKER: If you delete from garnishment statute and give
buyer protection only, how does that accomplish purpose?

GOWELL: Gives buyer ability to pay underlying mortgage payment and
keep out of default.

451 SEN. SHOEMAKER: Buyer as garnishee?
GOWELL: Correct.

453 SEN. SHOEMAKER: Buyer can ignore the garnishment?

GOWELL: That portion of the garnishment that is needed to keep
mortgage in force.

464 SEN. SHOEMAKER: When buyer/garnishee is garnished how does he know
of right?

TAPE 66, SIDE A

018 GOWELL: In 30-60% of cases, payments are made to collection agent
and they will be aware. Notice will be automatic.
>Those making a major payment would have incentive to be aware either
through legal counsel or other counsel.
>Not set forth in notice however.

034 SEN. SHOEMAKER: Must be some who wouldn't be aware?

GOWELL: Possibly.

036 SEN. SHOEMAKER: Notice of protection is important.

GOWELL: Comments on other methods of notice.

052 SEN. SHOEMAKER: More comfortable with notice of garnishment. OSB
is comfortable with that?

GOWELL: That can be put in the garnishment. Comfortable with those
amendments.

063 MOTION: SEN. SHOEMAKER: moves to AMEND SB 212 to reinsert lines 8 - 9, page four and amend line 10, page 4.

069 QUIGLEY: Intention is to include amendment in exemption and garnishment statute?

SEN. SHOEMAKER: Correct.

072 QUIGLEY: Legislative Counsel has indicated possible problem with relating clause.

SEN. SHOEMAKER: Bill doesn't seem ready to move yet.

076 GOWELL: Or add ORS 29.205 to relating clause.

SEN. SHOEMAKER: Still relates to exemptions from execution.

080 CHAIR SPRINGER: Counsel has discretion to add appropriate language.
>Sen. Shoemaker's motion is to include reference to 29.205 to the relating clause.

088 VOTE: Hearing no objection, the amendments are ADOPTED.

089 MOTION: SEN. SHOEMAKER moves SB 212, AS AMENDED, be sent to the floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. Sen. Rasmussen and Sen. Smith are excused.

093 CHAIR SPRINGER: The motion CARRIES.

SEN. SHOEMAKER will lead discussion on the floor.

095 CHAIR SPRINGER: Adjourns the hearing at 3:10 pm.

Submitted by:

Reviewed by:

Kirk Bailey
Assistant

Karen Quigley
Administrator

EXHIBIT LOG:

- A - Testimony on SB 147, Cecil Monroe, 2 pages
- B - Testimony on SB 147, L Winthrop, 3 pages
- C - Testimony on SB 147, Jim Markee, 5 pages
- D - Testimony on SB 147, Lewis Finley, 6 pages
- E - Testimony on SB 371, Bruce Rose, 13 pages
- F - Testimony on SB 493, L.R. Hyder, 13 pages
- G - Testimony on SB 493, L.R. Hyder, 14 pages
- H - Testimony on SB 154, Cecil Monroe, 2 pages

- I - Testimony on SB 154, Tom Potter, 2 pages
- J - Testimony on SB 464, Tim Travis, 3 pages
- K - Testimony on SB 464, Mark McDonnell, 2 pages
- L - Testimony on SB 493, Charles Woosley, 1 page
- M - Testimony on SB 458, Charlie Williamson, 3 pages