



replacing and if it is, why?

KOHO: The difference is the opportunity for dealers to exempt themselves

if they claim not to do what the language in line 18 says.

- The bill puts ORS 806.020 sub. 1-6 into chapter 822.

SEN. RASMUSSEN: And then removes the one exemption, which is "does not have ownership control or possession".

112 MOTION: SEN. HAMBY: Moves that HB 2334A be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED.

HB 2543: Modifies provisions of Uniform Commercial Code Article 2A concerning leases.

122 QUIGLEY: Refers to amendments given out at 6-4-93 hearing. Rich Keister says his organization doesn't oppose amendments.

132 SEN. SHOEMAKER: Did we learn if this language is common in the Uniform Commercial Code in other states?

QUIGLEY: At least 16 other states have enacted this legislation and we do have a letter from John McCabe of The National Conference of Commissioners on Uniform State Law.

152 MOTION: SEN. HAMBY: Moves that the HB 2334-A2 amendments be ADOPTED.

VOTE: Hearing no objection the amendments are ADOPTED.

161 SEN. G. SMITH: Are we saying that this takes us out of uniformity with other states?

CHAIR SPRINGER: There are other states that have adopted similar language.

178 QUIGLEY: The -A2 amendments don't have everything in the original request.

187 MOTION: CHAIR SPRINGER: Moves that HB 2334 as amended be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED. CHAIR SPRINGER will CARRY.

HB 2916: Repeals immunity of owners and operators of aircraft and watercraft for injury, death or loss to guest passenger.

215 GORDON CLAPPISON, EXPERIMENTAL AIRCRAFT ASSOCIATION/OREGON PILOTS ASSOCIATION: Submits and reviews written testimony in opposition to HB 2916. (EXHIBIT F)  
- Present liability will be null if this bill is passed.  
- Our free flights for young boys and girls (EAA) would be terminated.

271 CHAIR SPRINGER: Are you aware of Washington's EAA program?  
CLAPPISON: No. They have a similar program.  
SEN. HAMBY: Would some of your pilots currently be carrying liability?  
CLAPPISON: Yes. It is a requirement of the program.

285 SEN. HAMBY: What would the coverage be?  
CLAPPISON: They have \$100 to \$300,000 coverage.

291 SEN. HAMBY: What percent of your group might carry \$1,000,000 coverage?  
CLAPPISON: A small percent.

298 SEN. ROD JOHNSON, DISTRICT 23: Testifies in opposition to HB 2916.

347 CHUCK CAREL, INDEPENDENCE: Submits and reviews written testimony in opposition to HB 2916. (EXHIBIT E)

TAPE 184, SIDE A

001 ANDY ANDERSON, OREGON FLYING FARMERS'ASSOCIATION/EAA: Submits and reviews written testimony in opposition to HB 2916. (EXHIBIT G)

058 JILL BROGGI, OREGON FEDERATION OF BOATERS: Submits and reviews written testimony in opposition to HB 2916. (EXHIBIT H)

088 CHAIR SPRINGER: What kind of insurance do boat owners have?

BROGGI: They aren't required to have any, but they carry it.

SEN. RASMUSSEN: In circumstance insurance covers people on land, but not the guest passenger. And this is why you carry insurance?

110 BROGGI: I can't answer that.

SEN. RASMUSSEN: If there were an accident involving the guest and a

person on dock, the guest wouldn't be covered, but the person on the dock would?

BROGGI: I don't know.

121 SEN. RASMUSSEN: Your view is that if the captain were inebriated that would be gross negligence; therefore the guest passenger would be covered?

BROGGI: If a person is intoxicated they are already operating contrary to law. The guest would then have recourse.

131 SEN. RASMUSSEN: What happens if the boat owner decides to go 60 mph instead of 40 mph? It could be found negligent, so what would the guest passenger do?

BROGGI: I'd hope that the guest would be willing to speak up. If there were an accident they could seek recourse.

153 SEN. RASMUSSEN: So long as they could prove gross negligence. My point is that gross negligence is a high standard.

166 WILLIAM MACHUGH, ALBANY: Submits and reviews written testimony in support of HB 2916. (EXHIBIT I)

270 MICHAEL VAN HOOMISSEN, AVIATION DEFENSE ATTORNEYS/AVIATION ALLIANCE:  
Testifies in opposition to HB 2916. (EXHIBIT K)  
- The guest passenger should buy their own insurance.

356 SEN. WEBBER: Where do they buy this insurance, in a vending machine at the airport? I don't know what kind of insurance you're talking about.

HOOMISSEN: They could buy it in advance.

365 SEN. WEBBER: Most people who are guests don't regularly fly in airplanes.

HOOMISSEN: On the contrary, my guests are regular travelers.

368 SEN. WEBBER: Do they buy it as an umbrella coverage in their regular policy? Where would you put it?

HOOMISSEN: Any of those places.

371 SEN. WEBBER: What would the additional cost be to move the standard  
from  
gross to ordinary negligence?

HOOμισSEN: I won't know unless this bill passes.

388 SEN. WEBBER: I don't think there's much of an understanding  
between  
ordinary and gross negligence. Would you clarify the definition of  
ordinary negligence.

HOOμισSEN: Ordinary negligence depends on the facts presented in that  
particular accident. The captain is entitled to the benefit of the  
risk  
involved, whether it be river rafting or flying.

417 SEN. WEBBER: So when you talk about ordinary negligence one has even  
a  
harder burden, if in white water, to prove the captain acted with lack  
of do care.

TAPE 183, SIDE B

007 HOOμισSEN: I shouldn't have to be able to cover a free customer.

SEN. WEBBER: You don't even know what the cost of the premium will be.

017 HOOμισSEN: I shouldn't have to pay more than I already am providing.

SEN. RASMUSSEN: With respect to this free stuff, I do pro bono work  
and  
your argument tells me that my standard of care for someone who can't  
afford a lawyer ought to be less than my standard for those who pay  
me.

043 SEN. SHOEMAKER: All of you have been maintaining that you  
carry  
insurance, but its not liability and so you're not covered. Isn't that  
true?

HOOμισSEN: The immunity is for less than gross negligence.

SEN. SHOEMAKER: I own a sailboat and am legally responsible for my  
guests on the Columbia River. If I sail on just any lake my liability  
won't cover them.

072 HOOμισSEN: The plaintiff would recover against you if he could  
prove  
gross negligence.

SEN. SHOEMAKER: I'm not talking about gross, but ordinary negligence.

075 HOOμισSEN: Nothing prevents you from reaching into your pocket.

SEN. SHOEMAKER: I don't have enough resources to do that.

078 HOOMISSEN: Then you would be on our side of the ledger.

MACHUGH: Guests are already covered by their life insurance and disability.

095 SEN. SHOEMAKER: Sure, they could be covered medically, but  
life insurance is less likely. I want to be responsible and under current  
law I can't do that.

117 HOOMISSEN: Most volunteers can't afford that coverage

153 SEN. RASMUSSEN: If you fly to Vancouver, WA and pick up a resident at  
an airport and you negligently cause them harm, will your insurance cover  
that?

HOOMISSEN: If I am sued in a state where there is no guest passenger  
statute I am liable under their laws.

167 SEN. RASMUSSEN: You're a good lawyer and answered a question I  
didn't ask. I don't have any evidence that there is no volunteerism going on  
in Washington.

SEN. G. SMITH: You don't know what the cost of this type of insurance  
is in Oregon, but what has it done in other states? Has the volunteerism  
in other states diminished?

HOOMISSEN: Slightly. Oregon has more volunteers.

207 PAUL METZGER, SELF & EAA CHAPTER 105: Testifies in opposition to  
HB 2916.

287 RICHARD VAN GRUNSVEN, VAN'S AIRCRAFT INC.: Testifies in opposition to  
HB 2916.

327 JOSEPH HOLDEN, OPA\EAA: Testifies in opposition to HB 2916.

CHAIR SPRINGER: Do we know whether the premium for aircraft owners in  
California or Washington different?

HOLDEN: There is little difference in the premium.

TAPE 184, SIDE B

005 SEN. SHOEMAKER: Is it still possible for a passenger to waive  
liability?

CHAIR SPRINGER: It is tough to uphold a waiver in most circumstances.

032 BETSY JOHNSON: Testifies in opposition to HB 2916. Enters a letter into the record from Evan Boone of the Oregon Pilots Association. (EXHIBIT J)

044 CHARLIE WILLIAMSON, OTLA: Testifies in support of HB 2916.  
- Most boats under 50 horse power are covered by Farmers Insurance under a home owners policy.

089 CHUCK TAHMIN, ATTORNEY: Testifies in support of HB 2916.

093 MOTION: SEN. WEBBER: Moves that HB 2916 be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. HAMBY, SEN. G. SMITH vote NAY.

099 The motion is ADOPTED. SEN. RASMUSSEN will CARRY.

104 CHAIR SPRINGER adjourns hearing at 3:05 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal  
Assistant

Karen Quigley  
Administrator

#### EXHIBIT LOG

A - Testimony on HB 2334-Dennis Koho-1 pg. \*  
B - Testimony on HB 2916-Jeff Lewis-1 pg. \*  
C - Testimony on HB 2916-Bob Blensly-1 pg. \*  
D - Testimony on HB 2916-Randall Cummings-2 pgs. \*  
E - Testimony on HB 2916-Chuck Carel-1 pg.  
F - Testimony on HB 2916-Gordon Clappison-2 pgs.  
G - Testimony on HB 2916-Andy Anderson-3 pgs.  
H - Testimony on HB 2916-Jill Broggi-1 pg.  
I - Testimony on HB 2916-MacHugh-1 pg.  
J - Testimony on HB 2916-Evan Boone-3 pgs. \*  
K - Testimony on HB 2916-Michael Van Hoomissen-3 pgs.

\* Submitted written testimony only.