

SENATE COMMITTEE ON  
JUDICIARY

July 26, 1993      Hearing Room C  
1:00 p.m.      Tapes 229-230

MEMBERS PRESENT:    Sen. Dick Springer, Chair  
                          Sen. Jeannette Hamby  
                          Sen. Karsten Rasmussen  
                          Sen. Catherine Webber

MEMBERS EXCUSED:    Sen. Bob Shoemaker  
                          Sen. Gordon Smith

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

ISSUES DISCUSSED:    Work Session on HB 2737  
                          Public Hearing & Work Session on HB 2287, HB 3326  
                          Public Hearing on HB 2994, HB 3494

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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 229, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 1:13 pm. Sen. Smith and Shoemaker are excused.

HB 3494: Allows city or county to adopt zoning ordinance regulating sexually oriented business.

WITNESSES:          REPRESENTATIVE SHARON WYLIE  
                          REPRESENTATIVE KATE BROWN  
                          REPRESENTATIVE FRANK SHIELDS

015 REP. WYLIE: Submits and reviews written testimony in support of the bill (EXHIBIT D).

049 CHAIR SPRINGER: What is the definition of adult businesses and is it uniform in the areas studied?

051 REP. WYLIE: The bill definition is based on successful ordinances in other states; but am not sure the language is identical.

057 CHAIR SPRINGER: What is your definition? Is a liquor store an adult business?

059 REP. WYLIE: No; will submit clarification of definition on paper.  
- Continues reading testimony.  
- Submits amendments (EXHIBIT A).

148 REP. KATE BROWN: Testifies in support of the bill. Reviews a letter from constituent regarding drop in property values due to proximity of nude dancing establishment.

168 REP. FRANK SHIELDS: Testifies in support of the bill, as the former chair of the Northeast Neighbors Against Crime Steering Committee. Has spent much time talking to neighbors of these establishments regarding increased crime and noise levels and devalued property values.  
It's much needed for public safety.

195 CHAIR SPRINGER: Recalls debate over siting of Baloney Joe's homeless shelter and clustering these places together. Are there any parallels here, in terms of property values?

210 REP. SHIELDS: The same "NIMBY" syndrome is at work in both situations.  
But there are important differences between the situations. Providing shelter for the homeless is a positive endeavor.

251 REP. WYLIE: Regarding the definition of adult businesses, studies show that adverse impacts are similar for businesses that focus on sexual behavior - used condoms, needles, noise, litter, sex-related crime. I focused on the video and bookstores.  
- Concerning the NIMBY situation, there is risk of violating federal regulations and losing block grant funds for discriminating against social service agencies inappropriately.

287 REP. SHIELDS: There is a difference between rights and responsibilities; everyone has the right to buy a home and expect a degree of safety and courtesy. With respect to adult businesses, these rights are being infringed upon.  
- Society has a responsibility to take care of the homeless and poor.

305 REP. BROWN: Society as a whole benefits from social service programs.

Questions societal benefits of adult businesses.

317 CHAIR SPRINGER: I worked on SB 1017, which sought to give cities  
and counties greater discretion and authority over the issuance of liquor  
licenses. These establishments have many of the same adverse affects  
as adult businesses, and that got only 11 votes on the Senate Floor  
because liquor is so important to our society that we can't allow local  
communities exercise greater control over its distribution.

322 REP. WYLIE: Would have been delighted to vote for the bill on the  
House side.

333 CHAIR SPRINGER: Recesses the hearing on HB 3494, in order to hear  
from Rep. Mannix.

HB 3326: Allows child under 12 years old to be at race tracks after 6:00  
p.m.

WITNESSES: REPRESENTATIVE KEVIN MANNIX  
GLEN KNICKERBOCKER, LONE OAK RACING

337 REP. MANNIX: Testifies in support HB 3326. Requests amendments not  
be considered. There are limitations placed on the bill. Children have to  
be there with their parents or guardians.

376 GLEN KNICKERBOCKER: Submits and reviews written testimony in support  
of the bill (EXHIBIT G). In Salem, children under the age of 12 can  
attend the horse races during the State Fair, but cannot attend before or  
after the Fair run. This is difficult to explain to the public.

411 SEN. WEBBER: This would apply to all races anywhere in Oregon?

414 KNICKERBOCKER: It would apply to all licensed racetracks. There  
are three commercial tracks, and a number of county fair-operated tracks.

MOTION: Sen. Smith moves HB 3326-A to the Senate Floor with a  
"do pass" recommendation.

435 SEN. RASMUSSEN: Suggests withdrawing motion. Concerned  
about constitutional issue.

444 CHAIR SPRINGER: If there is no objection, the motion is withdrawn.

HB 3494: Allows city or county to adopt zoning ordinance regulating  
sexually oriented business.

WITNESSES:       JANET ARENZ, ACLU  
                  BRAD WOODWORTH, OREGON ENTERTAINMENT CORP.  
                  BONNIE MCKENNEY, PACIFIC NORTHWEST BOOKSELLERS ASSN.  
                  VICTORIA FREY, ART GALLERY OWNER  
                  JIM LODWICK, VIDEO STORE OWNER  
                  ROD MONROE, DAVID DOUGLAS SCHOOL BOARD  
                  KIMBERLY WEDGE, CITIZEN

STAFF NOTE: Background information and -A6 amendments submitted to the committee by staff (EXHIBITS A-F).

454   ROD MONROE: Testifies in support of the bill and its amendments. The School Board unanimously voted to support the bill. Most pedophiles are not behind bars and are attracted to adult bookstores and nude dancing establishments. When such establishments are located near schools or school bus stops, parents and school officials are concerned. We must protect children going to and from school. The bill passed the House overwhelmingly.

TAPE 230, SIDE A

050   JANET ARENZ: Testifies in opposition to the bill.  
- As background, I have worked for the Lane County Sheriff's Office and work with the Portland Police Bureau, specifically as to how to stop domestic crime against women and children. I have worked ten years in this area and feel strongly about it.  
- This bill will not make the community safer for women and children.  
- Submits testimony in opposition to the bill including HB 3134 and letters from interested parties (EXHIBITS H-K).  
- The bill has several technical problems. Home rule issues, and mandating what must be implemented on the local area.  
- While the conditional use permit may provide an "out" for adult businesses, it may create a constitutional problem. It provides a conditional use for certain businesses based on their business.  
- Secondary effects can be applied to other businesses, but this bill singles out a particular type of business. Existing state laws address nuisance situation. HB 3134 (EXHIBIT B) is an example of what we can do to regulate businesses creating concerns. Also, these secondary effects are crimes, which can be enforced now.  
- Who is responsible for determining which businesses meet this

definition? The bill's likely effect is not consistent with what Rep.

Wylie hopes it will be.

- Rex Armstrong, the attorney who worked on the Tidyman case believes

the bill is overbroad and has state and federal constitutional issues.

- Current nuisance law allows businesses that create the kind of

problems discussed here to be closed for up to a year. This is a

powerful tool.

- The definition is overbroad and could include such businesses as

Victoria's Secret, a lingerie shop, and certain art displays.

- The bill constitutes censorship.

170 BRAD WOODWORTH: Testifies in opposition to the bill.

- The bill does more than what Rep. Wylie would like it to do.

- Bill would not pass constitutional muster on state or federal

levels;

it is targeted at certain businesses, based upon the content of their

inventory.

- Los Angeles tried to restrictively zone adult businesses; 102

businesses would have had to relocate. There were, potentially, 120

relocation sites. The Ninth Circuit Court found that there were not

enough potential relocation sites, therefore the ordinance effectively

suppressed free speech.

- Refers to map of Portland. Given the provisions of the bill, little

space would be available for these businesses.

- Secondary effects may be dealt with through existing laws. Notes

that

Gresham's nuisance law was written in response to a topless bar

opening

business, but has only been applied to a Taco Bell and an apartment

complex.

- The -A6 amendments do not solve the constitutional problems.

285 BONNIE MCKENNEY: Testifies in opposition to the bill (EXHIBIT P).

- The bill restricts free expression by limiting legitimate books from

distribution.

322 KIMBERLY WEDGE: Testifies in support of the bill. A new

business

featuring nude entertainment has opened a block and a half from her

home. The neighborhoods need to be protected from declining property

values and crime. As a single parent, I can't afford to lose value in

my home.

359 VICTORIA FREY: Testifies in opposition to the bill (EXHIBITS J,

K).

Art galleries have revitalized neighborhoods and the language is overly broad and would impact art galleries. Notes that bus stop devalued her parents property more than the topless business down the street.

443 JIM LODWICK: Testifies in opposition to the bill.  
- Many types of businesses devalue property.  
- There are existing laws that can address secondary effects.

TAPE 229, SIDE B

030 JIM LODWICK: Continues his testimony.  
- The Texas study cited by Rep. Wylie found a correlation between crime and adult businesses, yet most adult businesses are located in areas where crime rates are higher.  
- In regards to the adult motel located across from Kellogg school, the neighborhoods effectively shut down that business without legislation.

055 CHAIR SPRINGER: Will take care of other bills scheduled for work session, then return to HB 3494.

HB 2737: Provides for forfeiture and destruction, use for law enforcement, donation or sale of deadly weapons used during commission of crime or unlawfully possessed.

060 BILL TAYLOR: Reviews the bill and -A7 amendments (EXHIBIT L).  
Most guns that are auctioned off will have to be sold through a licensed dealer, so the auctioneer will have to be a licensed dealer.

075 SEN. RASMUSSEN: This language is to address concerns raised by Sen. Hamby and Sen. Shoemaker. It will obligate the licensed dealer to do the paperwork and replaces prior amendments.

MOTION: Sen. Rasmussen moves adoption of the -A7 amendments.

VOTE: Hearing no objections, the amendments are adopted.

MOTION: Sen. Rasmussen moves HB 2737-A as amended, to the Senate Floor with a "do pass" recommendation.

101 SEN. HAMBY: Was information regarding where concealed weapons couldn't be carried incorporated into the bill?

103 BILL TAYLOR: Can't recall.

104 SEN. RASMUSSEN: Believes that it was included.

109 SEN. HAMBY: In addition, only 27 percent of all firearm sales  
are handled by retail outlets. It would be nice to amend this bill to  
require that all firearm sales go through licensed dealers/outlets.

VOTE: The motion passes 5 - 0. Sen. Shoemaker excused. Sen.  
Rasmussen will carry the bill.

HB 2287: Consolidates various statutes relating to attachment of income  
to satisfy child support obligations.

WITNESSES: JOHN ELLIS, DEPT. OF JUSTICE

125 JOHN ELLIS: Submits and reviews written testimony with amendments  
in support of the bill (EXHIBIT M). At one point, this bill was  
complicated and controversial because it provided for certain hardship  
relief. The controversial portions were amended out of the bill on the  
House side. It is straightforward and meets federal requirements.

MOTION: Sen. Rasmussen moves the proposed amendments dated July  
23, 1993 (EXHIBIT N).

VOTE: Hearing no objections, the amendment is adopted.

Senate MOTION: Sen. Rasmussen moves HB 2287-B, as amended, to the  
Floor with a "do pass" recommendation.

VOTE: The motion passes 5 - 0. Sen. Shoemaker excused. Sen.  
Rasmussen will carry the bill.

HB 3494: Allows city or county to adopt zoning ordinance regulating  
sexually oriented business.

WITNESSES: TOM HULL, VIDEO STORE OWNER

236 TOM HULL: Testifies in opposition of the bill (EXHIBIT O).  
- Suggests general nuisance law as being more effective.

HB 2994: Requires remand to adult court of child 16 years of age or older  
for specified crimes.

WITNESSES: MARK MCDONNELL, MULTNOMAH COUNTY DISTRICT ATTORNEY  
TIM TRAVIS, JUVENILE RIGHTS PROJECT  
JANET ARENZ, ACLU

397 CHAIR SPRINGER: Notes letter from Judge Herrell in opposition to  
the

bill (EXHIBIT Q).

411 MARK MCDONNELL: Testifies in support of the bill. The committee heard testimony on this subject when it heard SB 522. Testimony submitted for that bill is applicable to this bill. Since then, the age has been changed from 15 to 16 and the crimes have been narrowed to murder, aggravated murder, and rape in the first degree by forcible compulsion.

Testimony from that bill should be included under this bill.

- Aim of the bill is to provide a uniform standards in remanding individuals 16-17 years of age to the adult system for prosecution.

- Uniform application of bill: There's been dissatisfaction regarding whether the bill has been applied evenly to different groups. This bill would eliminate that problem because youths would be remanded based on conduct, not who they are.

- Refocus resources of juvenile system to younger, recent offenders: Violent crime is increasing among youths. As a result, it has been impossible to get "medium level" juvenile offenders into the training schools, and they have been dealt with on the local level. Because the scope is narrowed, the affect will be to re-direct resources to younger offenders.

TAPE 230, SIDE B

045 MARK MCDONNELL: This does not change the law in that individuals who are remanded prior to their 18th birthday would still go to the state training school first and could potentially remain there until age 21, provided they are engaged in a treatment program and are not a disciplinary problem. It is an important piece of legislation and changes the focus of the juvenile system.

062 TIM TRAVIS: Testifies in opposition to the bill.

- There are higher values in juvenile law than uniformity; each child should be looked at as an individual. A six-year old can pull the trigger of a gun; they should not be judged solely on the act.

- Does not believe that more resources would be available for younger offenders.

- If young offenders go to prison after their 21st birthday, the incentive to improve is taken away.



- Cites concluding paragraph of Judge Herrell's letter which suggests  
a comprehensive task force to address the issue.

107 JANET ARENZ, ACLU: Testifies in opposition to the bill. The  
current system allows discretion that should remain in the hands of judge.

120 SEN. RASMUSSEN: Closes hearing on 2994. Adjourns hearing at 2:45  
pm.

Submitted by,

Reviewed by,

Kirk Bailey  
Assistant

Bill Taylor  
Counsel

#### EXHIBIT SUMMARY

A - proposed amendments, HB 3494, staff, 11 pgs.  
B - bill, HB 3494, Janet Arenz, 2 pgs.  
C - testimony, HB 3494, staff, 3 pgs.  
D - testimony, HB 3494, Rep. Wylie, 7 pgs.  
E - testimony, HB 3494, staff, 2 pgs.  
F - testimony, HB 3494, staff, 2 pgs.  
G - testimony, HB 3326, Knickerbocker, 3 pgs.  
H - testimony, HB 3494, Arenz, 1 pg.  
I - testimony, HB 3494, Arenz, 1 pg.  
J - testimony, HB 3494, Frey, 2 pgs.  
K - testimony, HB 3494, Frey, 1 pg.  
L - proposed amendments, HB 2737, staff, 1 pg.  
M - testimony, HB 2287, Ellis, 3 pgs.  
N - proposed amendments, HB 2287, Ellis, 1 pg.  
O - testimony, HB 3494, Hull, 2 pgs.  
P - testimony, HB 3494, McKenney, 1 pg.  
Q - letter, HB 2994, Herrell, 4 pgs.