

SENATE COMMITTEE ON TRANSPORTATION

May 3, 1993 Hearing Room C 3:00 p.m. Tapes 68 - 69

MEMBERS PRESENT: Sen. Joan Dukes, Chair Sen. Bob Kintigh Sen. Jim Bunn
Sen. John Lim Sen. Catherine Webber Sen. Mae Yih

MEMBER EXCUSED: Sen. Tricia Smith

STAFF PRESENT: Ruth Larson, Committee Administrator Shannon
Gossack, Committee Assistant

MEASURES CONSIDERED: SB 955 SB 691 SB 685 SB 924 SB 101

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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
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TAPE 68, SIDE A

003 CHAIR DUKES: Calls meeting to order at 3:15 p.m.

WORK SESSION ON SB 685:

STEVE JOHNSTON, OREGON DEPT. OF TRANSPORTATION

008 LARSON: Reviews intent of SB 685. Submits and reviews SB
685 -9 amendments. (EXHIBIT A) -Section 2 of SB 685-9 amendments should
completely replace SB 685 not

be an addition to it. -A conceptual amendment would need to be made to
capture the intent of

the SB 685-9 amendments.

033 SEN. KINTIGH: Is this limited to the three on Mission street?

037 CHAIR DUKES: I think there were more and Representative Wooten
came in and expressed concern about Mission street.

042 SEN. KINTIGH: I think they said they way they could be included
would be by changing a date.

046 STEVE JOHNSTON, ODOT: There are approximately 10 outstanding
signs and there are 3 signs picked up by the amendments. There would

also be other signs as highways are transferred to the state of Oregon. It's highways transferred after February 19 which means that in the future if a

transferred occurred they would pick up some signs. I think this is good because then you wouldn't have to negotiate about the signs.

062 CHAIR DUKES: How far back do you have to go to get the other 7 signs?

067 JOHNSTON: I think about 1985. -Explains other highways involved.

067 CHAIR DUKES: Asks about the negotiations with signs on the Umpqua Highway.

074 JOHNSTON: The signs are still there are we are in the process of taking that over. They have resolved themselves to the fact that we will be

taking those signs over.

076 CHAIR DUKES: There are 3 signs that are owned by one person who is asking to allow them to be maintained and continued the way they are.

080 SEN. KINTIGH: Asks about the location of these types of signs.

083 JOHNSTON: Normally the state takes over highways in congested areas. There is no way to guarantee that. It is usually and industrial or

commercial zone. These types of signs aren't allowed in the country or in agriculture type zones.

088 SEN. LIM: How do you negotiate the buying of a sign and what do you pay?

091 JOHNSTON: Explains a Negotiating Team. If an agreement couldn't be negotiated then it would go to court to determine the cost.

MOTION: Chair Dukes moves to conceptually amend SB 685-9 amendments to further delete the rest of the original SB 685 not deleted by SB 685-9 amendments.

VOTE: Hearing no objection the motion is adopted.

MOTION: Chair Dukes moves SB 685-9 amendments, as conceptually amended, to SB 685.

MOTION: Chair Dukes moves SB 685, as amended, to the floor with a "DO PASS" recommendation. Senator Kerans will carry.

VOTE: In a roll call vote the motion carries with Senators J. Bunn,

Kintigh, Lim, Yih and Dukes voting AYE and Senator Webber voting NAY and

Senator T. Smith excused. Senator Kerans will carry.

WORK SESSION ON SB 955:

132 LARSON: Explains intent of SB 955. Submits SB 955-2 (EXHIBIT B) SB
998 -4 (EXHIBIT C) and SB 998-5 (EXHIBIT D) -Submits letter from
Legislative Counsel. (EXHIBIT E)

170 CHAIR DUKES: I would rather not put a repeal date on the cards.

180 SEN. BUNN: Didn't we pass SB 998 with the repeal language?

181 CHAIR DUKES: Yes we did. Senator Kennemer asked us not to pull his
bill since it goes to Ways and Means and he will conform it to whatever
we do here.

184 SEN. BUNN: What is the disadvantage of leaving the repeal date
in and changing next session?

189 CHAIR DUKES: Explains how a footnote would look.

192 SEN. BUNN: If two years from now the computer is ahead we could
adjust.

201 CHAIR DUKES: Concerned about different elected officials next
session. Leave it until it's up and running and then say we don't need
it. It may be an overlapping system.

207 SEN. KINTIGH: Is it possible to just let the police just not
enforce it anymore?

216 CHAIR DUKES: The worst thing that could happen is people
would be carrying the card. They are getting cited for lack of insurance
and when the card isn't needed they would no if they didn't have
insurance.

226 SEN. WEBBER: Originally I thought it was important to get rid
of the card when the computer came on-line. I don't think it's that big
of a

deal to leave the cards around a little longer.

237 SEN. BUNN: What if the card and computer are saying something
different?

241 CHAIR DUKES: That could happen. -Explains how you get a card with
your renewal information. -I would think it would be up to the officer.

261 SEN. LIM: What happens when there is a dispute regarding
information?

265 LT. BILL JOHNSON: It would be likely that no enforcement action
would be taken.

275 SEN. LIM: It still isn't very clear.

288 CHAIR DUKES: I'm sure there would be some confusion. I'm not
sure we could ever be 100% right.

294 LARSON: You have the SB 955-2 amendments with repeal date of March 1 1996 for the policy card. The rest of the bill is regarding the computer system.

303 SEN. BUNN: So we would adopt language like the SB 998-4 amendments and not repeal on March 1, 1996?

309 CHAIR DUKES: SB 995-2 amendments are what we did the other day.

MOTION: Senator Lim moves SB 955-2 amendments to SB 955.

VOTE: In a roll call vote the motion carries with Senators J. Bunn,

Kintigh, Lim, and Webber voting AYE and Senators Dukes and Yih voting NAY with Senator T. Smith excused.

328 SEN. YIH: If the system isn't ready then what happens. Shouldn't we wait and see?

MOTION: Senator Lim moves SB 955, as amended, to the floor with a "DO PASS" recommendation.

VOTE: In a roll call vote the motion carries with Senators J. Bunn,

Kintigh, Lim, Webber, Yih and Dukes voting AYE with Senator T. Smith excused. Senators Webber and Lim will carry.

WORK SESSION ON SB 691:

384 LARSON: Explains intent of bill Submits SB 691-2 amendments.
(EXHIBIT F)

TAPE 69, SIDE A

012 LARSON: Continues explaining SB 691-2 amendments.

028 SEN. BUNN: What if someone is driving through an area that is participating in the pilot project? So if my wife and I jointly own the car you don't put the lock on but if I jointly own the car with my mom

you do?

034 CHAIR DUKES: Maybe we should change the language to someone who is the sole owner.

037 SEN. WEBBER: Does this go into effect when the driving privileges are suspended? Are they suspended on the road or by subsequent action? When do you get suspended for that? Do you go through any kind of a notice or hearing?

047 PETE NUNNENCAMP, ODOT: Once we are notified that the person didn't have it installed in the vehicle then we would send out a notice of

suspension and they would be allowed a hearing or administrative review. We suspend the driving privileges after they refuse or fail they are

suspended for 12 hours they then have 10 days to request a hearing which then must take place before 30 days.

055 CHAIR DUKES: They are suspended 12 hours initially and then reinstated.

064 NUNNENCAMP: They need an opportunity for a hearing.

061 SEN. LIM: What about the driver from out-of-state? Wouldn't they be in a different state eventually?

064 NUNNENCAMP: On the 30th day they would be suspended even if they didn't have the privilege of driving in Oregon.

070 LARSON: There is language in section 3 regarding an additional six months of suspension.

088 CHAIR DUKES: This is not a voluntary thing?

097 NUNNENCAMP: Once we get notified that it wasn't installed then we would start the suspension process.

100 SEIJI SHIRATORI: The arresting agency participating would have jurisdiction. It isn't really a choice.

109 CHAIR DUKES: So someone would be automatically involved. How would Portland do something like this? Who would decide who gets this device

and who doesn't?

116 SHIRATORI: This would be piloted in jurisdictions with the resources to meet needs of people in the programs. This device is on the vehicle for 45 days.

125 CHAIR DUKES: Can Motor Vehicles require a device installed? It's not the jurisdiction who is making the decision?

130 NUNNENCAMP: This wouldn't be a state wide program so it would be in those jurisdictions taking part in the pilot program.

134 CHAIR DUKES: Would DMV be making the requirement?

138 NUNNENCAMP: The requirement would come from TSD which would pick the jurisdictions in the program. Once the jurisdiction is in the program it would be like the interlock program. That would be a requirement for

those in the jurisdiction.

146 SHIRATORI: Arresting agency would make the decision. In section 3, subsection 2, SB 691-2 amendments there is language regarding who makes the decision.

147 CHAIR DUKES: It says that they attach it but the decision is left to DMV.

160 SEN. BUNN: Wouldn't it be logical for the court to decide?

164 NUNNENCAMP: It doesn't have anything to do with what happens in court. It is similar to implied consent.

169 SEN. WEBBER: These cases do go to court on occasion.

170 NUNNENCAMP: This is the administrative suspension process regardless of what happens in court.

173 SEN. WEBBER: Who does the hearings? DMV does everything but the court trial. Is there anyway to do this without going through the court? Are

there parallel hearing that never go into court? Does this apply to both tracks or only the one that doesn't go to court?

188 CHAIR DUKES: If we could figure out who makes the decision to put it on maybe we could figure out your question. DMV has no authority if it goes to court. They aren't the suspending agency if it goes to court.

200 DON LECOUTEUR: This process would happen before a person gets to court. Typically we're talking 3-6 months from date of arrest before person

gets into a court room. This would happen in 30 days of arrest.

210 SEN. BUNN: This is done and over with even if person is acquitted in court.

212 LECOUTEUR: Yes, just as is the license suspension.

213 SEN. BUNN: If it's a pilot program why do we have to exclude vehicles that are jointly owned.

218 CHAIR DUKES: Explains why there are safeguards for co-ownership. -Concerned about language regarding single family vehicle.

230 LECOUTEUR: We could replace spouse with family members.

237 CHAIR DUKES: What about people not related at all but jointly own a vehicle?

241 LECOUTEUR: I'm not sure what the legal definition of family is.

245 SHIRATORI: Senator Hamby would be open to a conceptual amendment that would delete spouse and say, to person who are joint registered owners

of a vehicle. That would include non-related folks.

256 CHAIR DUKES: I still don't know who is making this decision.

256 LECOUTEUR: It would be limited to small cities with a limited geographic area and population. -Explains the arrest procedure and how it ties in with SB 691.

298 CHAIR DUKES: I think we need to amend section 3, subsection 1 to say, the arresting agency. It isn't DMV that is doing it. Whether the person ever ends up with the device on the wheel is totally irrelevant to DMV.

316 SEN. YIH: Asks about the release of the device?

320 LECOUTEUR: Explains what the club is and how it works. -You do

need a key to unlock it. There is a section about tampering with the device and making it an infraction.

336 SEN. YIH: What happens on the 45th day?

339 LECOUTEUR: There is the possibility that the individual is still suspended. The fee would be no more than \$100.00 dollars and covers the costs of the arresting agency for the installation of the club device.

353 CHAIR DUKES: Why only 45 days?

358 LECOUTEUR: It was a compromise figure. -Discusses statistics on driving while suspended.

375 CHAIR DUKES: Sounds like we're expecting them to drive the last 45 days.

382 NUNNENCAMP: Explains that they could apply for a hardship permit.

387 CHAIR DUKES: How does that work?

390 NUNNENCAMP: You could get it on the 30th day but couldn't drive a car?

396 NUNNENCAMP: It could be a potential problem.

400 SEN. BUNN: That's a trade off to killing people on the highway.

405 SEN. WEBBER: I think this should be for the length of the suspension. I wonder about hardship permits.

423 CHAIR DUKES: You can't get a hardship permit for the first 30 days. -If a jurisdiction chooses to do this then it would apply to everyone

who is suspended.

TAPE 68, SIDE B

016 SEN. LIM: Questions effectiveness of this bill because of the one ownership issue. There aren't a lot of people who have one name on the

title of a vehicle.

023 LECOUTEUR: It could be and considered that. There is only one way to find out.

025 SEN. BUNN: What is a single family vehicle? Does it mean a vehicle that is the only vehicle owned by the family?

033 LECOUTEUR: That is correct. Three vehicles in the family we club the one that was being driven.

036 CHAIR DUKES: In section 4 we created a new offense regarding "knowingly furnishing".

045 LECOUTEUR: That is there more for the two vehicle family. Those are the people who would more likely be aware that the spouses' car

has been

clubbed.

054 CHAIR DUKES: What if both vehicles were jointly owned?

057 LECOUTEUR: We could club the vehicle that was being driven. Driving while suspended is serious.

060 CHAIR DUKES: If both were jointly owned and one was clubbed and a the person goes out and drives the other one I don't think you're going to

get the spouse for knowingly letting them drive. The spouse is probably going to say they didn't give them authorization to drive.

069 SEN.BUNN: Does section 4 only apply to the time the device is required to be on the vehicle?

072 LECOUTEUR: Yes.

MOTION: Senator J. Bunn moves to conceptually amend to SB 691-2, on

page 2, line 3, delete "motor vehicle division" and insert "arresting agency". On line 20 of page 2, delete "who's spouses" and insert

"who", and delete "single family".

VOTE: Motion adopted.

096 SEN. WEBBER: Are we inserting "arresting agency"?

099 CHAIR DUKES: Yes we are.

101 SEN. YIH: On line 20 of SB 691-2 amendments, does it apply to all cars?

104 CHAIR DUKES: Reads language on line 2, of SB 691-2 amendments. The spouse would still have the ability to drive that vehicle. In a family

or business where there is one vehicle.

114 SEN. YIH: What happens if he is the sole owner of the car?

115 CHAIR DUKES: He's got a problem. He is going to have the device attached.

116 SEN. YIH: So the exemption only applies to the joint owner.

117 SEN. BUNN: Did we leave in the intent that they still put the device on if it is joint ownership and more than one vehicle? It is my intent

that we maintain putting the device on the vehicle if there were more than one vehicle. Otherwise this would be an extremely narrow application.

130 CHAIR DUKES: If a family has more than one vehicle and they are jointly owned then they should be able to be in this.

132 SEN. BUNN: Maybe you could replace the word "spouse" with "family". So that you do not take care of the situation where friends or partners are together but you do take care of the majority of the cases where it's a family with one vehicle. That's why I asked earlier what was meant by a "single family vehicle".

137 LARSON: So take out the word "family"?

140 SEN. BUNN: Currently the SB 691-2 amendments says if we have spouses that are joint owners and that is the only vehicle they own we don't

club it. My intention was to expand that from spouses to families. So if it's a son driving the vehicle that the family doesn't have that vehicle clubbed. It's not to say you can have four vehicles and you're immune

from this if they are all jointly registered.

151 CHAIR DUKES: What about joint businesses owners and it's the only vehicle in the business.

153 SEN. BUNN: I have a bill that would just forfeit the vehicle. I think we should recognize if there is more than one vehicle.

163 CHAIR DUKES: How do you deprive someone of a property right for not violating a law.

167 SEN. BUNN: Just as when I loan a vehicle to someone I face liability for their actions. I also face the risk of losing my vehicle. I am the

second most person in control of what happens with the vehicle. The

operator has the most and I as the owner have the second most and if I'm not responsible with who I loan that to then I'm contributing to the

risk on the highways.

180 CHAIR DUKES: I don't think we will get where you want to be even with these amendments. You could have three vehicles in a family and still

joint registered on that vehicle. I think you need to take family out to do it. You then become joint registered owners of a vehicle assuming

that is the only one you have.

187 SEN. BUNN: Is it a family vehicle, and that family has more than three, but they were all available for the family. Any one of those three

driven would be club.

193 CHAIR DUKES: What's a family vehicle?

195 SEN. BUNN: I'm happy to pass the SB 691-2 amendments.

199 SEN. YIH: Why don't we leave it the way it is. It's seems very clear. It would seem the language means they only own one car.

202 CHAIR DUKES: Then it should say, "single vehicle".

208 SHIROTARI: "to persons who are joint registered owners of a single vehicle, family; or business".

MOTION: Senator J. Bunn moves to further conceptually amend SB 691 -2, on page 2, section 3, line 3 to remove the words "motor vehicle division" and insert "arresting agency", on line 20 remove "who's spouse's" and insert, "who", and the last three words in line 20 would be changed to, "single vehicle family".

VOTE: Hearing no objection the motion is adopted.

230 SEN. YIH: Why do we need 4 years for a pilot program?

233 NUNNENCAMP: Explains the ignition interlock program.

236 SEN. YIH: Are there funds for a follow up study?

239 LECOUTEUR: We have a draft fiscal ready and it includes a .5 FTE.

243 CHAIR DUKES: You're not hiring an extra half time person.

MOTION: Senator J. bunn moves SB 691-2 amendments, as amended, to SB 691.

VOTE: Motion carries.

MOTION: Senator J. Bunn moves SB 691, as amended, to the Judiciary Committee.

VOTE: In a roll call vote the motion carries with Senators J. Bunn, Lim, Yih and Dukes voting AYE and Senators Kintigh, T. Smith and Webber excused.

WORK SESSION ON SB 924:

274 LARSON: Submits chart reflecting changes. (EXHIBIT G) -Submits SB 924-3 and 924-4 amendments. (EXHIBITS I & J)

300 CHAIR DUKES: At the last meeting the issue was enough time for notification.

310 AL ELKINS: We are asking that the current 5 days be replaced with 3 days.

316 CHAIR DUKES: So the amendments clarify the \$200.00 from \$400.00 dollars issue and clears up the notification.

322 ELKINS: That is correct. On page 1, line 23 of SB 924-4

amendment we added a new section regarding notification. -We would like to add language to page 2, line 3 of SB 924-4 after

"section", and insert, "the 48 hours shall not include holidays, Saturdays or Sundays." -We would also like to make more amendments on page 1, line 18 of SB

924-1 amendments regarding "division" means "Department of Motor Vehicles", and the names and addresses showing ownership of vehicle in division records. This will allow us to get the information immediately. -After the word, "provide" on line 19, page 1 of SB 924-4, insert "at the time of the tow."

393 CHAIR DUKES: So the State Police would put a sticker on and three days later they, after they have sent out the notice, then they tell you to

two it.

398 ELKINS: I forgot to include a change on line 35, page 2 of the original bill taking it from \$400.00 dollars to \$200.00 dollars to make it

consistent with the rest of the bill. Also the same changes need to be made on page 3, of SB 924, line 1 and on page 3, line 45 of SB 924.

TAPE 69, SIDE B

012 CHAIR DUKES: In section 6 of SB 924-4 amendments regarding mailing notice do we need the same language regarding holidays, Saturdays and

Sundays?

018 ELKINS: I have talked to Keith Burns about his amendments and we agree that on page 5, line 12 after "notice" insert the language from SB 924 -3 amendments.

045 CHAIR DUKES: So you're doing both. First class, registered or certified.

046 ELKINS: That is correct.

MOTION: Senator J. Bunn moves to conceptually amend SB 924-4 amendments on page 1, line 19 to insert, "shall provide at the time of the tow". On page 2, line 3, after the word "section." insert, "the 48 hours shall not include Saturday, Sunday or holidays". On page 5, line 12 of SB 924-4 amendments after the word "notice," insert "by first class or registered or certified mail."

VOTE: Motion adopted.

MOTION: Senator J. Bunn moves to amend SB 924, on page 2, line 35

changing the \$400.00 to \$200.00 dollars and on page 3, line 1, change the \$400.00 to \$200.00 dollars and on page 3, line 45 change \$400.00 to \$200.00 dollars.

VOTE: Motion adopted.

MOTION: Senator J. Bunn moves SB 924, as amended, to the floor with a "DO PASS" recommendation.

VOTE: In a roll call vote the motion carries with Senators J. Bunn, Lim, Webber, Yih and Dukes voting AYE and Senators Kintigh and T. Smith excused. Senator J. Bunn will carry.

WORK SESSION ON SB 101: Requires suspension for violating out-of-service.

055 LARSON: This bill basically conforms us to some federal requirements.

-Submits SB 101-4 amendments. (EXHIBIT J)

061 CHAIR DUKES: Asks about the penalties.

065 LARSON: I believe the civil penalty is not less than \$1,000 or more and \$10,000 on the employer. I think we need to be looking at the SB 101-4

amendments.

080 MIKE UNGER, DMV: We don't know why the \$2,500.00 fine is in there other than making reference to section 1, paragraph 4. I believe that's the

penalty for the class A misdemeanor.

098 JOAN PLANK, DMV: The offense the federal government wants us to take action on is jumping an out of service order, which is the second time

around. -Explains jumping out of service.

130 CHAIR DUKES: Currently what happens?

132 UNGER: We're trying to make this consistent with PUC law. I'm not sure what it is, if it's a traffic infraction or what.

135 PLANK: The reference in this bill was to make it consistent with the offense in PUC statute for jumping the out of service.

136 CHAIR DUKES: DMV gets involved why?

139 UNGER: DMV is involved because PUC covers only 80% of drivers.

There is still the 20% out there. Federal rules require that all commercial

driver operators to be subject to these sanctions.

144 CHAIR DUKES: How do those 20% get inspected?

147 UNGER: I'm not sure.

148 PLANK: Section 1 of SB 101 was put in last session to respond to federal requirements. We probably wouldn't get them. It's the alcohol on

someone's breath concept that the federal government wanted to catch.

157 CHAIR DUKES: Only thing we're catching here?

160 UNGER: Only ones we are aware of.

162 CHAIR DUKES: So it would be public employees, as an example, driving while intoxicated.

176 UNGER: That was the intent of the law to catch those there weren't already under PUC law.

180 PLANK: If a school bus driver had alcohol on their breath it probably isn't going to be a police officer that brings it to someone's

attention.

188 CHAIR DUKES: Are we only catching the ones that alcohol related?

192 UNGER: Yes that is true.

199 PLANK: This bill requires the civil penalties of people who jump out of services orders. All truck drivers who jump out of service orders, it

requires the civil penalty on both the driver and motor carrier. It gets confusing because of the section that deals with out of service for

alcohol related offenses. The purpose of the bill in requiring with

federal requirements is to take action

against people violating out of service. There are about 30 people who

would be effected a year by this proposal. Essentially you have to get caught twice.

215 CHAIR DUKES: Any out of service order they jump will be covered.

220 UNGER: Yes.

MOTION: Senator Lim moves SB 101-4 amendments to SB 101.

VOTE: Motion adopted.

MOTION: Senator Lim moves SB 101, as amended, to the floor with a "DO PASS" recommendation.

VOTE: In a roll call vote the motion carries with Senators Lim, Webber, Yih and Dukes voting AYE and Senators J. Bunn, T. Smith and Kintigh excused. Senator Lim will carry.

230 CHAIR DUKES: Adjourns hearing at 5:00 p.m.

Submitted by, Reviewed by,

Shannon Gossack Ruth Larson Assistant Administrator

EXHIBIT LOG: A - SB 685-9 amendments, staff, 6 pgs. B - SB 955-2 amendments, staff, 6 pgs. C - SB 998-4 amendments, staff, 1 pg. D - SB 998-5 amendments, staff, 1 pg. E - Legislative Counsel comments, staff, 1 pg. F - SB 691-2 amendments, staff, 3 pgs. G - SB 924 background, staff, 1 pg. H - 924-3 amendments, staff, 1 pg. I - 924-4 amendments, staff, 10 pgs. J - 101-4 amendments, staff, 2 pgs.