

SENATE COMMITTEE ON TRANSPORTATION

May 19, 1993           Hearing Room C 3:00 p.m.   Tapes 83 - 84

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

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

MEASURES CONSIDERED:           Executive Appointment SB 774 SB 948

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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 83, SIDE A

003   CHAIR DUKES: Calls meeting to order at 3:12 p.m.

EXECUTIVE APPOINTMENT:

010 LARSON: You have the biography information on Mr. Thomas O'Connor in front of you.

030   CHAIR DUKES: Asks about how he feels about licensing small crafts.

032 O'CONNOR: Canoes and kayaks don't pay a registration fee it's motorized crafts and sail boats over 12' that pay a fee. The steel headers in the past have looked at trying to license those kinds of canoes and drift

boats so they would have better access to facilities. My personal feeling is I wouldn't have any objection to licensing my canoe because I use the waterways and facilities. I don't think it is something that could be done without the consent of that part of the boating community. It will come when those folks feel like they want a service out of the Marine Board and want to be able to use the facilities better.

050   SEN. WEBBER: Are there any women or minorities represented on the board?

052 PAUL DONHEFFNER, MARINE BOARD: Explains current composition of the Marine Board.

058 CHAIR DUKES: They are all white males.  
057 SEN. SMITH: Maybe women and minorities don't have boats.  
063 SEN. KINTIGH: There was a women on it and she resigned.  
065 CHAIR DUKES: Sensitive issue for this committee.  
067 SEN. WEBBER: The Governors office is very sensitive in this area.  
069 CHAIR DUKES: Suggests communicating this to the Governors office.  
074 DONHEFFNER: Discusses female members through the years.  
083 CHAIR DUKES: We never hear a problem with getting a white male on a board!

WORK SESSION:

MOTION: Senator Smith moves confirmation of Mr. O'Connor to the State Marine Board, to the floor with a "DO PASS" recommendation.

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

PUBLIC HEARING ON SB 774 AND 948: Relating to Motor Vehicle Division records.

JOHN MCCULLEY, OREGON PSYCHIATRIC ASSOCIATION AL ELKINS, TOW TRUCK ASSOCIATION CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION BILL SEELY, MOTOR VEHICLE DIVISION ROSE MARIE GRAHAM, CITIZEN TODD FISHER, SENATOR TROW'S OFFICE RENEE NEIDEMEYER, SENATOR PHILLIP'S OFFICE DELL ISHAM, AUTOMOBILE ASSOCIATION OF AMERICA RON MCGEE, AUTOMOBILE ASSOCIATION OF AMERICA

117 JOHN MCCULLEY, OREGON PSYCHIATRIC ASSOCIATION: Testifies in support of SB 774. -Discusses members in association that have been victims. -This is an important safety issue.

147 CHAIR DUKES: They can get this information somewhere else.

150 MCCULLEY: Whatever holes can be filled we will support that. There are always ways to get this information but this seems to be one very well

known and used. I have used this and was amazed on how easily this was done. I think there would be a significant impact if this is closed.

165 AL ELKINS, OREGON TOW TRUCK ASSOCIATION: We understand the intent but have a problem with this if we couldn't access names and address. We

have to send out notifications.

173 CHAIR DUKES: You either get exempt from the bill or you can't carry out what we have asked you to do.

180 ELKINS: We would like to be able to send the notices out.

184 CHAIR DUKES: Can't the State Police assist you?

189 ELKINS: They aren't always involved.

188 CHAIR DUKES: Asks about the towing procedure.

190 ELKINS: Explains procedure for towing. If it's been there a long time and we need to trace through the VIN number.

193 SEN. SMITH: What if the bill were amended to say if you are acting in legitimate governmental business you could get the information.

200 ELKINS: That gets it in the right direction.

210 CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Submits and reviews proposed amendments to SB 774 regarding insurance companies and attorneys. (EXHIBIT B) -We would like to be able to find people. -Discusses past legislation regarding accounts.

240 SEN. SMITH: Why would you need these records?

242 WILLIAMSON: Example of hit and run accident. -Discusses prevention of solicitation legislation.

263 BILL SEELY, DMV: Testifies in support of SB 948. This would not be a problem for us to add Judges to the list. (EXHIBIT C) -Submits and reviews written testimony regarding SB 774. (EXHIBIT D) -There is an amendment that would delete section 3 of SB 774 dealing

with a fee.

286 SEN. SMITH: Who needs to have the information currently?

288 SEELY: The things Mr. Elkins spoke of and anyone that attaches a mechanics or possessory lien to a vehicle or a landlord lien.

293 SEN. SMITH: Wouldn't they need to file some sort of papers before they followed through on the lien? 305 SEELY: Explains the process of notice to individuals.

309 SEN. SMITH: Couldn't you notify the owner?

314 SEELY: For the person that needs to get notice to that person?

310 SEN. SMITH: I don't know if we need to leave the records open so much as we need to assure that there is some process to get notification.

333 SEELY: That is exactly where we are going with this. It would seem most reasonable to us to have an exemption in the bill for anyone who had a

statutory obligation to notify a vehicle owner of a process.

337 SEN. SMITH: Only for that particular circumstance of notification.

345 CHAIR DUKES: The amendment deals with getting information legally but using it illegally or for purposes other than what you got it for. There will be a penalty.

347 LARSON: Submits SB 774-1 amendments. (EXHIBIT E)

353 SEELY: Explains proposed language from last session regarding DMV records. -Legal notice issue.

359 SEN. SMITH: Couldn't you facilitate that the notification issue?

370 SEELY: Yes we could do that but it does add another layer on top of what we currently do. -Explains possible process.

380 CHAIR DUKES: It is in your best interest to you to get the title cleaned up.

391 SEELY: We would like consideration for people who have to statutorily provide notice. -Concerned about vehicle recall issue.

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033 SEN. SMITH: If the federal government requires a recall than they would have access. We've been assisting in the recall and it is really the

responsibility of the manufacturer.

036 SEELY: They federal government may contract with a third party to do a recall.

037 SEN. SMITH: They don't just use it for recall purposes.

042 SEELY: That is true unless you mark your record with us for no direct mail.

057 SEN. BUNN: How many requests per year does DMV get for a persons's address?

060 SEELY: No number for people who walk in off the street. It would be measured in the thousands annually. 064 SEN. BUNN: The number who don't want the solicitation?

067 SEELY: Vehicle registration file 7.5% percent is marked that way. May go up to 19% percent are choosing that option. -Discusses case from last meeting.

076 CHAIR DUKES: Could this be a customer who gets lots of addresses?

085 SEELY: The ones we have the best control over are the ones who have accounts with us.

089 CHAIR DUKES: Are those noted so that if someone wanted Senator Smith, but got her as one of 200 records you would be able to trace that?

090 SEELY: Yes we could. -Discusses ways into DMV records that aren't recorded.

077 CHAIR DUKES: How would that work.

079 SEELY: You would have to represent yourself. If someone just called up out of the blue and gave us plate number and asked for the name of the

owner we'll say no, not because it's confidential but because it costs money and we want money before we give it out.

108 CHAIR DUKES: If I went into a DMV office and asked for information on a specific plate number and the name what would I get?

092 SEELY: You could get the vehicle record or the driver records. -Discusses fees involved.

125 SEN. KINTIGH: Explains personal experience with DMV records.

110 ROSE MARIE GRAHAM, CITIZEN: Explains her personal experience with threatening mail. -Submits written testimony. (EXHIBIT F)

194 SEN. YIH: DMV gives out information regarding weight, sex, and age?

203 GRAHAM: He knew everything about me. I don't know what he paid.

208 SEN. YIH: I thought that was personal information that DMV shouldn't give out.

216 CHAIR DUKES: You don't have a choice, if you want to drive you have to give us personal information and pay a fee.

228 GRAHAM: Explains procedure she used in getting individuals name that sent her a letter.

228 SEN. SMITH: This guy has an established account for business purposes and used it for personal reasons.

237 SEELY: Mrs. Graham helped us track this person down. This individual has used this information for commercial purposes in the past. As far as we know this is the only incident we've had.

274 CHAIR DUKES: This is scary but not illegal.

275 SEN. SMITH: Can you refuse him access now?

276 SEELY: No, we can not refuse him. -Discusses some personal responsibility.

285 SEN. SMITH: You have to continue to give him this information?

294 LARSON: Refers to California law in terms of DMV authority regarding penalties for misuse.

316 DELL ISHAM, AAA: The uncertain of the actual impact of SB 774.

325 CHAIR DUKES: We are just looking at both of these bills to try and determine if we should close down access to DMV records.

332 ISHAM: I'm not sure this bill address the issues Mrs. Graham talked about. -Subsection 2 of SB 774 only restricts residence address.

336 CHAIR DUKES: It is possible to amend the bill.

343 ISHAM: We are going to ask for some amendments and part of this relates to access to DMV records and AAA direct mail advertising. -We have the highest renewal rate of any AAA organization in the country.

361 RON MCGEE, AAA: Submits and reviews written testimony. (EXHIBIT G)

390 CHAIR DUKES: Asks if it would apply to just AAA.

393 MCGEE: Their agents could be a direct marketing firm.

397 ISHAM: Close to 20 motor service clubs regulated by the insurance division of the State of Oregon.

400 MCGEE: Continues with review of AAA membership.

416 SEN. WEBBER: Can't you target a market without the name?

420 MCGEE: Yes if we are cross referencing off of something else.

429 SEN. WEBBER: A tape without names but other data would be useful.

431 MCGEE: Yes.

433 SEN. LIM: If someone is determined to get this information they will get it.

TAPE 83, SIDE B

006 CHAIR DUKES: Your right, if someone is persistent enough they can get this information. -We don't have the authority over some of the other issue because we

have the mandate to deal with transportation.

016 SEN. BUNN: The DMV file is the largest single source around.

022 SEN. WEBBER: There really is a very strong state legitimate interest in accessing information. It's how do you protect the public safety piece

and close other things down.

027 SEN. SMITH: The State requires private citizen to give up private information to state so that we can give them their driving privilege.

It really is privileged information. Then we turn around and sell the information for some purpose other than the government purpose for

having it in the first place then we are facilitating whatever that extended purpose is. That is a basic police decision. If the government is going to require private citizens to give the government personal information then we should hold that information in confidence and use it only for the purposes we need it for.

042 SEN. LIM: Appreciates comments from Mrs. Graham.

050 SEN. YIH: Suggests compromise of giving out information without names.

055 CHAIR DUKES: Sometimes people give DMV a name and then gets the rest of the information.

067 SEN. BUNN: Suggests limiting information altogether or do it in bits and pieces. -We could make this information costly with a mandatory notification to the individual who's information is being requested. -My preference is that we say this is for law enforcement purposes and

DMV purposes and the state isn't going to play big brother. We're not going to help someone in politics or businesses and get back to what it was designed for.

087 RENEE NEIDEMEYER, LEGISLATIVE ASST., SENATOR PAUL PHILLIPS: The Senator is the sponsor of SB 948. This was introduced at the request of Judge

Timothy Alexander. -Testifies in support of SB 948.

120 TODD FOSTER, LEGISLATIVE ASST., SENATOR CLIFF TROW: Clarifies intent of SB 774. -This is intended to be a vehicle for discussion.

138 CHAIR DUKES: How would you feel if we began to close down the records?

139 FOSTER: No problem with that. -Supports California law. -Time to balance the public interests in protecting those individuals

who are not limited to stalking victims but also spousal abuse.

-Suggests the adoption of SB 774-2 amendments. (EXHIBIT H) -Suggests conceptual amendment to SB 774 to exclude name as well as

address.

WORK SESSION ON SB 948: Relating to Motor Vehicle Division records.

181 CHAIR DUKES: I would like to see SB 948 move forward. I think Judge Alexander made a good case and Senator Webber has proposed amendments

would allow everyone exempt be given the right to request they put their employment address in and then also to extend their ability to do that

for up to five years after leaving profession.

199 SEN. WEBBER: DMV can suppress records but still use them for internal purposes.

MOTION: Chair Dukes moves to amend SB 948 inserting language that would allow everyone who is authorized to use their employment address instead of their home address for DMV records to continue for five years after they leave that employment to have the information suppressed.

VOTE: Motion adopted.

MOTION: Chair Dukes moves SB 948, as amended, with a "DO PASS" recommendation.

234 SEN. YIH: Asks why there is an agriculture exemption in existing law.

239 LARSON: Explains past legislation regarding exemptions.

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

WORK SESSION ON SB 774: Relating to Motor Vehicle Division records.

272 LARSON: We already have SB 774-1 amendments which would make this a crime if used in an unauthorized manner. (EXHIBIT E) The SB 774-2

amendment would take out the idea of the fee involved. (EXHIBIT H) and a conceptual amendment from Financial Institutions from Keith Burns.

(EXHIBIT I) The people from AAA also had a conceptual amendment to the bill.

290 SEN. BUNN: Conceptually to try and close the information; driver's record doesn't seem to need to be open for public purposes and the

vehicle information I can understand the concern to prevent the address from being available. -Suggests conceptual language; "notwithstanding any provision of law

declaring records of the Division to public records, the driver, or vehicle address records are exempt from public disclosure.

302 CHAIR DUKES: What does that leave.?

304 SEN. SMITH: How many Buicks there are in Oregon. -If you had a plate number you could find out that plate number belonged on a buick



which belongs to Fred Jones, but you wouldn't find out where Fred Jones lived. 311 SEN. KINTIGH: There wouldn't be much point in getting it then.

313 CHAIR DUKES: Can I assume that the amendment we were discussing earlier that would allow these records available to anyone who the state

requires send out notices would be a part of this?

321 SEN. BUNN: If you have a new vehicle you have a warranty registration card.

323 CHAIR DUKES: I'm referring to the tow truck operators.

326 SEN. SMITH: I think that would be a legitimate government purpose. They are acting at the direction of the law enforcement agency. They have

directly or indirectly through law enforcement the ability to get that address.

333 SEN. BUNN: I believe the way we are doing this would not prohibit DMV from making the information available it would not require them to make it available. So I guess we are leaving some discretion and I'm not sure we want to do that. If we make it non-public records and they can say

you don't have a need then we won't have to provide it.

344 CHAIR DUKES: We just lost DMV on that one.

346 SEN. SMITH: My hope is that if we require private citizens to provide information to the government for legitimate government purpose, that is what the information should be used for, period. Anyone who wants that

information for business enterprise or for some other reason would have to go someplace else for it. I don't think the government should be involved with those kinds of transactions. Not when we are requiring this information.

359 CHAIR DUKES: What if we were to leave in law enforcement, insurance companies and attorney's working on cases involving DMV records. That is what I believe California does.

367 SEN. BUNN: Why don't we leave in those that are required to, by state statute or rule to contact people.

372 CHAIR DUKES: That takes care of the tow trucks, but leaves out the insurance companies and attorneys.

374 SEN. BUNN: Why do they need access anymore than AAA or the Democratic Party, or anybody else in the world? We can't decide who to leave in

and who to leave out because everyone had differing levels of

justification.

384 SEN. WEBBER: Having sat through SB 500 I believe there is a legitimate interest in having the records to the extent we can, open to the public. It's important. We don't know who else is legitimate as we sit here. I

can think of several other groups who I think are legitimate access to the records. I'm real concerned and I won't support this bill.

405 SEN. BUNN: If we were to limit access to those who had legitimate government purpose, does that cover the servers and the tow trucks? I'm not concerned about covering the commercial purposes.

412 CHAIR DUKES: There are no requirements to be a process server so I lost my interest last session.

417 SEN. BUNN: I am happy to have a short list and let them go over to the House and argue why they ought to be added to the list.

420 SEN. KINTIGH: What if I get sideswiped and I get the license number?

422 CHAIR DUKES: You would have help from the State Police in this type of matter.

TAPE 84, SIDE B

003 SEN. LIM: When I give my information to DMV is it private or public?

007 CHAIR DUKES: Everything they have on you is public record not private and anyone can get it. Senator Bunn and Smith are proposing that only

law enforcement and people we the legislature require to send out notices have access to that information.

023 SEN. LIM: When they get the information do we guarantee we won't release the information?

028 CHAIR DUKES: It's public information. The SB 774-1 amendments would create a misdemeanor offense if someone got information for legitimate

purposes and used it for something other than what they obtained it for.

032 SEN. WEBBER: There are other ways to suppress your address.

038 CHAIR DUKES: Something has to have happened before you go in and request that be suppressed.

034 SEN. WEBBER: Was is the basis for that, is it statutory or generic power of the state that you can if there is danger?

039 SEELY: It's statutory in that it is basic public records policy and they are open. Where there is a situation where it is more in

public

interest to keep a record closed we can do that.

041 SEN. WEBBER: You've had a court opinion saying it must be real and present danger in order to suppress and address?

046 SEELY: That is correct. Also that the person had to have taken other measures to protect themselves if it was a person who's address and

phone number were available everywhere else it wouldn't qualify.

049 SEN. WEBBER: Could you have a potential danger?

052 SEELY: Generally it has to be a clear a present danger. Some people would identify that as a potential danger. -Discusses case of Mrs. Murphy.

058 SEN. WEBBER: I disagree with you. I think you can write a statute and I think the stalker bill is one that does identify that you can identify

potential danger and set something up for it.

062 SEELY: I was just saying our current authority does not extend that far.

065 SEN. WEBBER: Asks for a list of all of the organizations and people who now come in and ask for public records.

069 SEELY: Yes, we can get that for you.

MOTION: Senator Bunn moves to conceptually amend SB 774 to delete the language that puts the burden of having their name removed on the individual. Add language "not withstanding any provision of law declaring records of the Division to be public records, the driver records and vehicle owner address information are exempt, except for legitimate governmental purposes. No more personal dating services and no more commercial purposes. It's government functions only.

083 CHAIR DUKES: So all of a persons driver records would be closed 100% and you wouldn't be able to get the address off of the vehicle records. If

someone had your plate number or your name they wouldn't be able to get your address.

089 SEN. BUNN: Except for legitimate governmental purposes.

090 CHAIR DUKES: Asks for legislative intent on "governmental purposes".

091 SEN. BUNN: If the government requires the tow truck owners to notify then that would be acceptable or if we require a server to notify that

would also be acceptable. If it is AAA wanting to go out and sell memberships it is not acceptable. If I want to match my voter file and identify people based upon age; not acceptable.

101 CHAIR DUKES: What if I'm in an accident and I hire an attorney to sue the person who hit me?

102 SEN. BUNN: That would not be legitimate governmental purpose, that would be a commercial purpose.

103 CHAIR DUKES: I'm a city and I want to notify all the people in a particular area?

104 SEN. BUNN: That would be a governmental function covered.

105 JOAN ROBINSON, LEGISLATIVE COUNSEL: What about a recall which are sometime ordered by federal government and sometimes not?

106 SEN. BUNN: No.

107 SEN. YIH: I think that is legitimate.

110 CHAIR DUKES: I think what is happening is there are a lot of exemptions for which you could make an argument. We struggled with this last

session and the list kept growing. 117 SEN. YIH: I guess a recall would be a commercial purpose and so the dealers should do it.

118 CHAIR DUKES: Although, if the Federal government ordered a recall that would be a legitimate governmental purpose.

121 SEN. BUNN: I don't have a problem with that but I do believe that this is a problem that exists when 20% percent of the people now are taking a step to prevent their information from being provided. I believe the

majority of the people would say no I don't want my information available for commercial purposes. It will cause hardship but not as much risk and hardship that we have now with a wide open system.

128 SEN. KINTIGH: What about when you write a check in a store and they want your driver license number?

132 SEN. SMITH: That is just a procedure set up by stores they don't actually check DMV records.

139 SEN. WEBBER: Did you use the word "state interest"?

140 CHAIR DUKES: Legitimate government purposes.

145 SEN. KINTIGH: I would feel more comfortable figure this out and bring it back to us.

148 CHAIR DUKES: The Senate President has limited us on hearing

Senate bills.

152 SEN. WEBBER: I'm real concerned about other stuff we might be eliminating, I just don't have a whole sense of the universe out there, I'm real concerned about newspapers who use this to find people. We have constructed a whole system that rely on these records and at this late

in session suddenly close it down really disturbs me.

168 CHAIR DUKES: The motion is conceptual and Legislative Counsel will fine tune this. -I think the legislative intent is fairly clear.

174 ROBINSON: Do you intend to close them down not only to people with accounts but to also the individual who walks in and asks about a

specific person.

178 SEN. BUNN: Correct.

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

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

183 SEN. KINTIGH: I'm with this in principle but I'm not real comfortable with it and I hope if some problems come up with can get it taken care

of on the House side. I do agree this is a problem and this looks to be a good approach.

193 CHAIR DUKES: I have had concerns about closing them down for years but I don't know how else to do it and there is legitimate needs which we will hear from every single one of them tomorrow. 202 ROBINSON: This conceptual amendment seems to override most of what is in the bill.

MOTION: Senator J. Bunn moves SB 774, 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, T. Smith and Dukes voting AYE and Senator Webber voting NAY with Senator Yih excused. Senators T. Smith and J. Bunn will

carry.

215 CHAIR DUKES: Adjourns meeting at 5:00 p.m.

Submitted by, Reviewed by,

Shannon Gossack Ruth Larson Assistant Administrator

EXHIBIT LOG:

A - Executive Appointment information, staff, 12 pgs. B - SB 774 testimony, Charles Williamson, 1 pg. C - SB 948, testimony, Bill Seely, 1 pg. D - SB 774, Testimony, Bill Seely, 2 pgs. E - SB 774-1 amendments, staff, 1 pg. F - SB 774, testimony, Rose Marie Graham, 5 pgs. G - SB 774, testimony, Dell Isham, 1 pgs. H - SB 774-2 amendments, Todd Foster, 1 pg. I - SB 774, testimony, staff, 1 pg.