

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.

HOUSE COMMITTEE ON AGRICULTURE, FORESTRY & NATURAL RESOURCES

April 16, 1991                      Hearing Room E 8:15 A.M.                      State Capitol  
Tapes 66 - 68

MEMBERS PRESENT: REP. WALT SCHROEDER, Chair REP. LIZ VANLEEUWEN,  
Vice-Chair REP. SAM DOMINY REP. BILL DWYER REP. TIM JOSI REP. JOHN MEEK  
REP. CHUCK NORRIS

STAFF PRESENT:                      BETH PATRINO, Administrator EDWARD C. KLEIN,  
Assistant

MEASURES CONSIDERED: HB 2934 - PUBLIC HEARING HB 2786 - PUBLIC HEARING

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TAPE 66, SIDE A

003 CHAIR SCHROEDER: Calls the meeting to order at 8:20 A.M.

PUBLIC HEARING ON HOUSE BILL 2934 -- EXHIBITS A to G

Witnesses: Rep. Walt Schroeder, District 48 James Parker, Oregon Biomedical Research Network Jack Vanderlip, D.V.M., Director of Veterinary Services and Animal Care, University of Oregon Julie Grizzel, Association for Animal Protection Brian Doherty, Attorney, Representing Medical Research Foundation of Oregon and Oregon Primate Center Kelvin Koong, Associate Director, Oregon Agricultural Experiment Station and Head, Department of Animal Sciences, Oregon State University Marcia Bryan, West Coast Regional Director, Incurably Ill for Animal Research Terry Witt, Executive Director, Oregonians for Food and Shelter Larry Trosi, Director, Government Affairs, Oregon Farm Bureau

CHAIR WALT SCHROEDER, District 48: Opens the Public Hearing.

-He presents testimony in support of HB 2934 (EXHIBIT A).

098 JAMES PARKER, Oregon Biomedical Research Network: Presents testimony in support of HB 2934 (EXHIBIT B).

149 REP. NORRIS: Please describe your organization.

PARKER: Explains.

164 JACK VANDERLIP, D.V.M., Director of Veterinary Services and Animal Care, University of Oregon: Presents testimony in support of HB 2934 (EXHIBIT C).

250 REP. DOMINY: Is there anything in the bill that could be a problem later on?

-Would you have drafted it differently?

VANDERLIP: There might be a slight change in the definition of "research facility."

REP. DOMINY: Refers to page 1, line 7. Instead of "releases", would "knowingly releases" be better?

VANDERLIP: Would have no problem with that.

CHAIR SCHROEDER: It says "knowingly" on line 6.

275 REP. NORRIS: On page 1 of your testimony you mentioned the ALF and a convicted criminal. This suggests there is a statute? Do you believe that legal action was sufficient?

VANDERLIP: Cannot comment.

-As far as he knows that was the only conviction we've had as a result of a break-in.

286 REP. VANLEEUEWEN: You refer to the ALF and the PETA. Are there overlapping members in those two organizations?

VANDERLIP: The ALF is a secret organization.

-PETA disavows their involvement with the ALF, but are supportive of their activities.

REP. VANLEEUEWEN: We have found that there is an overlapping number of people in these different national organizations.

318 CHAIR SCHROEDER: Is it necessary to use live animals in some of these tests?

VANDERLIP: We have been moving toward non-animal models. We're a long way from being able to test some systems with non-animal models.

CHAIR SCHROEDER: They're used in some cases, but not in all cases?

VANDERLIP: Scientists would like to use non-animal models.

-He has never known a scientist who feels good about putting an animal to sleep following a study.

-There are more costs involved when animals are used.

-With limited budgets the competition for research funds is another incentive to move towards the less expensive way of doing things, which would limit the number of animals used.

359 JULIE GRIZZEL, Association for Animal Protection: Presents testimony in opposition to HB 2934 (EXHIBIT D).

-She does not support people breaking into labs.

425 REP. DOMINY: Do you believe there's no reason for the research?

GRIZZEL: Does not want to take a side.

-Maybe it is or isn't legitimate research. It is controversial.

-Some animals don't have to be used.

-She has received complaints from students who are required to open up dogs in order to complete their Ph.D's at OSU.

449 REP. JOSI: Your concerns seem to be about improperly certified or run facilities?

-It seems there is no proper definition of an animal research facility in the bill?

CHAIR SCHROEDER: Refers to line 20, which defines animal "research facility".

REP. JOSI: Do you still have problems with the bill with this solid definition?

GRIZZEL: Yes, because a similar bill was not acceptable to the U.S. Justice Department and ACLU.

-The standing laws are enough.

TAPE 67, SIDE A

022 CHAIR SCHROEDER: Reads a letter from the Department of Justice about allowing the states to take initiative in this matter.

028 REP. DWYER: Don't you think there should be a limit on how people can show dissent?

-Do you advocate committing crimes and destruction?

GRIZZEL: Does not support break-ins or any type of theft.

REP. DWYER: When experiments are interrupted it's not like stealing a pet. How do we discourage illegal acts when the current law isn't working?

-What would you do to stop illegal acts?

GRIZZEL: The laws are adequate. There aren't a lot of problems in Oregon.

-One of the gentlemen who got caught for a break-in will pay.

057 CHAIR SCHROEDER: HB 2660 deals with theft of animals and will take care of your concern if it passes.

-Destroying research is a very serious situation.

066 REP. MEEK: Do you oppose this legislation?

GRIZZEL: Yes.

077 BRIAN DOHERTY, Attorney, Representing Medical Research Foundation of Oregon and Oregon Primate Center: HB 2660 will address some of the concerns of the last witness.

-We support HB 2934.

-The penalty provisions increase the burglary of a research facility from a misdemeanor to a felony and applies penalties that more accurately assess the loss the facility has.

-These research facilities are regulated by the U.S. Department of Agriculture and the National Institute On Health.

-The Department of Justice opposed the federal legislation, because of the cost of enforcement.

-The penalties in the bill allow the research facilities to recover costs beyond mere vandalism to property.

111 REP. DOMINY: The Department of Justice was opposed because of the costs to administer it?

DOHERTY: That was my understanding.

REP. DOMINY: How much will it cost on the state level?

DOHERTY: Does not know the administrative cost.

-The method of apprehension will be the same; the penalties to be enforced will be different.

REP. DOMINY: Does this have a referral to Judiciary?

CHAIR SCHROEDER: No.

REP. DOMINY: He suggests we check to see if it needs a referral.

CHAIR SCHROEDER: Refers to the "Prison Impact Assessment" and no fiscal or revenue impacts (EXHIBIT E).

REP. DWYER: Is puzzled how we got a crime bill.

-He hopes costs would go down, because when people realize what the penalties are they might put efforts into more beneficial activities.

CHAIR SCHROEDER: Asks BETH to check with Judiciary.

154 KELVIN KOONG, Associate Director, Oregon Agricultural Experiment Station and Head, Department of Animal Sciences, Oregon State University: Testifies in support of HB 2934.

-Most of us in large animal research love animals.

-We want to address animal welfare.

-Our facilities are open to the public.

-Animal rights groups picture us as butchers.

-At each institution in the state we have animal use committees, who must approve every use of an animal before we conduct research.

-We are not as irresponsible as we are pictured.

-We use our facility for research, teaching and exchange programs.

-He suggests that the bill include teaching and extension functions in the definition.

CHAIR SCHROEDER: Where would that fit?

225 KOONG: On line 20, after "animal research" add "teaching".

-In regards to the penalties: It's not just damage to the facility, but it's damage to the research programs as well.

245 REP. NORRIS: What's the future outlook for the veterinary program?

KOONG: It's part of a regional veterinary college, as you know. At this point the program will be maintained.

265 CHAIR SCHROEDER: Refers to lines 9 to 13. Does that language take care of your concerns?

KOONG: Yes. You should add "and teaching" where you have "research facility".

REP. VANLEEUEWEN: For consistency we should change it throughout the bill.

299 MARCIA BRYAN, Portland Area Chairperson and West Coast Regional Director, Incurably Ill for Animal Research: Presents testimony in support of HB 2936 (EXHIBIT F).

362 REP. JOSI: Thanks her for her testimony.

-Diabetes is prominent in his family.

BRYAN: You might be interested in signing up for the family studies at the University of Washington.

387 TERRY WITT, Executive Director, Oregonians for Food and Shelter: Testifies in support of HB 2934.

-Several years and considerable amounts of money are often involved in testing.

-A significant loss can occur if these studies are disrupted or if any of the data are destroyed.

-The bill helps to deter these destructions and disruptions and helps to recoup some of the damages that occur.

-Other losses need to be considered. When a study is delayed the commercial release of a necessary product could be delayed several years.

-We support this bill.

TAPE 66, SIDE B

034 LARRY TROSI, Director, Government Affairs, Oregon Farm Bureau:  
Testifies in support of HB 2934.

-Since 1981 there have been approximately 100 acts of terrorism,  
break-ins and vandalism throughout the country.

-He refers to Illegal Incident Summary (EXHIBIT G), which was compiled  
by the American Farm Bureau and is a summary of the terrorism, break-ins  
and vandalism that has occurred.

-We are only aware of two prosecutions to date; one was in Oregon.

-Several other states are considering or have passed similar  
legislation.

-We encourage the committee to pass this bill.

055 CHAIR SCHROEDER: DR. PARKER, do we need to protect researchers in  
their homes or is that taken care of in the law?

PARKER: To my knowledge it is not taken care of in the law.

-Researchers have had their personal lives disrupted; if possible, that  
should be included in the bill.

REP. DWYER: Won't support limiting First Amendment rights, but is  
willing to support limiting any criminal acts.

CHAIR SCHROEDER: Was referring to any illegal activities.

REP. DOMINY: We may need to check the relating clause.

CHAIR SCHROEDER: We'll check on that.

-He recesses at 9:23 A.M.

-He reconvenes at 9:36 A.M.

PUBLIC HEARING ON HOUSE BILL 2786 -- EXHIBITS

Witnesses: Jerry Weir, Union County Sheriff, President, Oregon Livestock  
Theft Investigators Association and Oregon State Sheriffs Association  
Russ West, District Attorney, Union County and Vice President, Oregon  
District Attorneys Association Ken Kohl, Livestock Identification,  
Department of Agriculture Dennis O'Donnell, Oregon State Police Rep.  
Walt Schroeder, District 48 John McCulley, Oregon Cattlemen's  
Association Terry Witt, Executive Director, Oregonians For Food and  
Shelter Larry Trosi, Oregon Farm Bureau Ken Palke, Oregon Dairy Owners  
Association Rep. Ray Baum, District 58

093 CHAIR SCHROEDER: Opens the Public Hearing.

100 JERRY WEIR, Union County Sheriff, President, Oregon Livestock Theft  
Investigators Association and Oregon State Sheriffs Association:  
Presents testimony in support of HB 278 6 (EXHIBIT H).

161 REP. DOMINY: If a cow has a calf by a bull, that bull has no merit?

WEIR: Unless there is an agreement, it is common practice that the owner of a bull is not considered having ownership of a calf sired by that bull.

REP. DOMINY: If a person buys a cow that they don't know is stolen, they are out of luck?

WEIR: Under current law, it has to be proven you knew it was stolen at the time of purchase.

REP. DOMINY: Does this bill change that?

WEIR: This does not make possession a crime.

-It's common practice on the open range for cows to be mixed.

-This bill makes it against the law to keep a person's cow or calf and gain financial benefit from it.

-This bill would also address the person who takes a horse for a few days and then sets it loose or returns it.

199 REP. DOMINY: What percentage of the range cattle are branded?

WEIR: That's an independent problem. This law will not address that.

-In our part of the state over 80 percent are branded.

-Identification is a separate problem that we need to deal with.

REP. DOMINY: Can you claim a cow and calf by that cow after a person has had it for several years?

WEIR: We believe that should happen. The calf belongs to the cow.

-He has worked cases where they've recovered two year old heifers.

229 REP. DOMINY: Does not see how this bill helps you accomplish that.

WEIR: That's an investigative responsibility.

-The reason for this is that a large percentage of people are taking livestock and then return the livestock after they have raised the offspring.

-That's a substantial loss to the owner.

REP. DOMINY: What is the expense involved in an investigation and who pays the bill?

WEIR: That's the cost of doing business. That's something we currently do.

-This will add no cost to us.

-Impounding is sometimes the biggest cost.

REP. DOMINY: Would the person who is convicted of cattle theft have to

pay the court cost?

265 RUSS WEST, District Attorney, Union County and Vice President, Oregon District Attorneys Association: This bill makes it a crime to take and hold a livestock animal and derive a benefit.

-The district attorneys feel this bill is a useful tool.

-We have proof problems if we charge someone with theft. We have to prove beyond a reasonable doubt that a person intended to permanently deprive the owner of the economic benefit.

-He presents an example where they couldn't prove that particular element.

-We ask you trust the DA's judgement and grand jury process that we wouldn't prosecute cases where there is no criminal intent.

-This would not impact indigent defense.

328 REP. NORRIS: Is the definition of "livestock production facility" broad enough?

-He refers to page 2, lines 10 and 11, HB 2786-2, Proposed Amendments to HB 278 6, dated 4/15/91 (EXHIBIT I).

-Do the words "facility or organization" cover ranching activities?

CHAIR SCHROEDER: "Livestock animal" refers to ORS 164.055. The amendments contain a different definition of livestock found in ORS 609.010.

346 WEST: Does not have a position on the amendments.

-He believes the definition covers livestock operations in Union County.

REP. NORRIS: Does "facility or organization" embrace ranching?

WEST: Believes "facility" would include a ranch.

REP. JOSI: He is concerned about trusting you to use better judgement.

-Line 6 says taking or deriving benefit without consent. What if someone keeps calling a rancher to come and get a cow that has wandered on his property and the person never picks it up, would that be implied consent?

WEST: We'd have to prove intent beyond a reasonable doubt.

-He doesn't think they could successfully prosecute the case in your example.

REP. JOSI: What about malice between two farms and the owner of the cow denies the calls ever took place?

421 WEIR: Situations like that happen every day.

-This bill does not change the burden of proof.

WEST: There is a stray law. If someone's cows get on a ranch the



rancher can hold the animals and go through an advertising process. If the owner doesn't claim the animals they can be sold and the proceeds go to the feed bill.

REP. JOSI: Even if you know the owner?

WEIR: The livestock department sells them.

TAPE 67, SIDE B

011 KEN KOHL, Livestock Identification, Department of Agriculture: Has done investigative work on livestock theft the last 10 to 12 years.

-It is estimated that over \$1 million worth of livestock disappear every year in this state.

-The cases we are investigating deal with the cow-calf situation.

-He describes three cases in three different counties they had difficulty prosecuting.

051 REP. DWYER: How would this bill affect the statute of limitations?

KOHL: Every year a new calf was born would be an ongoing occurrence.

REP. DWYER: Where's it say that in the bill?

WEST: We could prosecute if there was a calf born in the last three years.

REP. DWYER: Do these animals have to be reported lost?

KOHL: Like you said, if you lay down your chain saw and it's gone you would suspect it's been stolen.

REP. DWYER: If someone picks up a chain saw that's been left, it's not stealing.

WEIR: Under current law that would be theft.

REP. DWYER: You could put an add in the paper and if there's no response it would become yours.

-Could a person file a gister's lien if a cow comes on their property?

KOHL: Under current law, in order to receive restitution, you have to notify someone in authority within five days.

REP. DWYER: These animals don't have to be reported lost?

KOHL: The majority aren't reported lost in the open range.

REP. DWYER: What about someone who doesn't fix their fences and their cows keep getting on my property and you call the person repeatedly to fix their fences?

-He is not deriving any economic benefit.

WEIR: You haven't violated the law.

REP. DWYER: What if that cow had calves from my bull?

WEIR: A variety of laws deal with that situation.

REP. DWYER: This opens up a can of worms. It should go to Judiciary.

101 REP. DOMINY: It doesn't seem fair that if a cow comes on to my property there has to be notification, but if a cow is lost you don't have to say your cows are lost?

WEIR: That's the way the law is currently.

REP. DWYER: This makes it a felony if you're being abused by an inconsiderate person.

-Do you uniformly enforce the laws?

WEST: We try to be fair.

REP. DWYER: What about gasoline card locks? What if you got a complaint a cooperative was violating the law; would you prosecute?

WEST: The State Fire Marshall's Office would investigate.

-He holds safety paramount and would prosecute.

-In regards to the neigHB or with bad fences: You would have to sell the calves to break the law.

REP. DWYER: Why keep the cows for someone else's benefit?

WEST: There is a process to notify the proper individuals. They are sold through the Department of Agriculture.

141 KOHL: You have to notify the Depart of Agriculture and they will take the animals.

-There are a different set of rules on the open range.

REP. DWYER: You tolerate some things, because you don't want to anger your neigHB or.

REP. NORRIS: Are there any current laws on animal trespass?

WEIR: There are civil procedures to handle that.

-This bill talks about criminal intent.

162 REP. VANLEEUEWEN: What if a person buys a stolen cow or the person who sold the cow still owes money on it?

WEIR: Your proposing two scenarios.

-If a person sold something without free and clear title it would probably be a civil matter.

-If you buy a stolen cow, we have to prove you knew it was stolen.

-That stolen cow would go back to its rightful owner and then we'd work the case back to the person who sold the cow.

CHAIR SCHROEDER: MR. KOHL, have you finished your testimony?

196 KOHL: There was the same problem with the unauthorized use of motor vehicles. That law works.

REP. DWYER: You can't breed cars.

-If a person uses someone else's horse to pack out an elk and then that person sends the horse back that's a felony under this?

KOHL: Yes.

REP. JOSI: You mentioned there was a different set of rules on the open range?

-There are different herds intermingling?

KOHL: You have to fence the animals out if you don't want them on your property.

CHAIR SCHROEDER: On a closed range you have to fence them in.

REP. DOMINY: When was the last time someone got financial gain from an automobile that rolled onto someone else's property?

WEIR: You are not in violation of the law when a cow wanders on your property.

REP. DWYER: Who does an unbranded horse belong to on the open range?

WEIR: The owner of the horse.

REP. DWYER: There are no wild horses?

WEIR: No.

KOHL: There are other methods of identifying animals besides brands.

REP. JOSI: Does this bill have a referral to Judiciary?

CHAIR SCHROEDER: No.

REP. JOSI: Some of us have problems with this, we don't have the legal background.

-He would be more inclined to vote for it if it had a referral.

WEIR: We have no problem with that.

CHAIR SCHROEDER: We could loan it to them.

270 REP. NORRIS: Refers to section 2 of the amendments, which defines a "crime of interference".

-These definitions do not talk about stray bulls or cows. It might be better to narrow these definitions.

WEIR: We are not addressing the amendments. We support them, but we are only addressing section 1.

CHAIR SCHROEDER: They are my amendments and were supposed to go into HB 293 4.

301 DENNIS O'DONNELL, Oregon State Police: Testifies in support of HB 2786, as printed.

REP. WALT SCHROEDER, District 48: Presents testimony in support of HB 2786 and the Proposed Amendments (EXHIBIT J).

399 JOHN MCCULLEY, Oregon Cattlemen's Association: Presents testimony in support of HB 2786 (EXHIBIT K).

439 REP. DWYER: Is there a -1 amendment?

CHAIR SCHROEDER: Yes.

REP. JOSI: Is the -2 amendment different than the -1?

451 BETH PATRINO: Yes. She explains.

TAPE 68, SIDE A

024 TERRY WITT, Executive Director, Oregonians for Food and Shelter: Testifies in support of the bill and -2 amendments.

045 LARRY TROSI, Oregon Farm Bureau: Testifies in support of the bill and -2 amendments.

071 KEN PALKE, Oregon Dairy Owners Association: Testifies in support of the bill and -2 amendments.

091 REP. RAY BAUM, District, 58: The bill is narrowly crafted and will get after the sophisticated rustlers who use dogs to steal livestock.

-If Judiciary borrowed the bill there would be no changes.

112 CHAIR SCHROEDER: REP. DWYER raised some concerns.

REP. BAUM: He raised legitimate concerns, but the bill doesn't touch those.

REP. DWYER: Doesn't see this bill getting at the sophisticated rustlers; the current law deals with that and he can't support the bill.

REP. BAUM: He's referring to those that keep and breed the cattle.

REP. DWYER: Would like to ask MR. KOHL some questions.

-Is there sufficient law to prosecute the sophisticated rustlers?

150 KOHL: Yes.

REP. BAUM: If a person is successful in keeping those cattle secluded from the law enforcement officers--

REP. DWYER: This deals with strays. The current deal deals with outright theft.

REP. BAUM: Current law won't touch the real good thieves.

KOHL: Livestock theft is difficult to prove.

-The D.A. won't prosecute if a cow just came on someone's property. Even if someone kept the cows for six years, we still don't have the intent they stole the cows.

REP. DWYER: Doesn't see any problem of proving the intent of a sophisticated thief under the current law.

KOHL: There is no problem; the thief is a different problem.

REP. BAUM: Honest ranchers won't get hurt by this bill.

182 REP. JOSI: Someone would have to have seen dogs were being used. If's that's the case, there are laws that will cover that.

-If a person used dogs to steal cattle, all they have to do is deny it.

REP. DWYER: Wants to penalize thieves, but not cause problems with neighbors because of strays.

REP. BAUM: That situation would be worked out between landowners.

KOHL: The problem is getting the D.A. to take the case, because you have to prove intent.

REP. DWYER: Would you object to adding the requirement that an animal is reported as lost?

KOHL: Would probably not object in this part of the state.

-In my area of the state cattle may be gone for six months before we realize they're gone.

REP. JOSI: "Intent" is written in the law.

CHAIR SCHROEDER: In my area of the state there is some open land.

KOHL: We're constantly encouraging ranchers to report losses as soon as they can.

220 REP. NORRIS: Could you give us a brief example why the present law doesn't work and why this one would?

WEST: Presents an example of a case they lost.

260 KOHL: Presents an example.

REP. JOSI: In that case did the true owner know where the cows were?

KOHL: He reported them lost, but didn't know where they were.

CHAIR SCHROEDER: Closes the Public Hearing.

-He adjourns at 10:45 A.M.

Submitted by:      Reviewed by:

Edward C. Klein, Beth Patrino, Committee Assistant  
Administrator

Committee

EXHIBIT LOG:

A - Testimony on HB 2934 - Rep. Schroeder - 3 pages  
B - Testimony on HB 2934 - James Parker - 3 pages  
C - Testimony on HB 2934 - Jack Vanderlip - 24 pages D-Testimony  
on HB 2934 - Julie Grizzel - 1 page E-SMS/Fiscal/Revenue impacts for HB  
2934 - Staff - 3 pages F-Testimony on HB 2934 - Marcia Bryan - 2 pages  
G-Illegal Incidents Summary - Larry Trosi - 11 pages H-Testimony on HB  
2786 - Jerry Weir - 3 pages I-Amendments to HB 2786 - Rep. Schroeder - 2  
pages J-Testimony on HB 2786 - Rep. Schroeder - 2 pages K-Testimony on  
HB 2786 - John McCulley - 1 page