

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 BUSINESS AND CONSUMER AFFAIRS

January 22, 1991
p.m.

Hearing Room F 1:15
Tapes 5 - 8

MEMBERS PRESENT: Rep. John Schoon, Chair Rep. Hedy L. Rijken,
Vice-Chair Rep. Jerry Barnes Rep. Lisa Naito Rep. Carolyn Oakley Rep.
Beverly Stein Rep. Greg Walden

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2297 PH HB 2298 PH

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TAPE 5, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:16 p.m. and announces he will be leaving to attend a meeting on land use.

HB 2297 - REQUIRES INSURERS OR REGISTERED OWNERS TO REPORT TOTALED VEHICLES TO MOTOR VEHICLES DIVISION AND TO SUBMIT CERTIFICATE OF TITLE AND REGISTRATION PLATES IF POSSIBLE Witnesses: Tim Wood, Assistant Attorney General, Dept. of Justice (Testimony on HB 2297 and HB 2298 are mixed throughout meeting).

The following are hereby made a part of these minutes: Preliminary Staff Measure Summary (EXHIBIT A); Legislative Fiscal Analysis (EXHIBIT B).

019 TIMOTHY WOOD, Assistant Attorney General, Oregon Department of Justice, submits and reviews a prepared statement on HB 2297 proposing amendments to change the definition of "totaled vehicle" (EXHIBIT C).

HB 2298 - CREATES BOARD TO LICENSE AND REGULATE AUTO BODY REPAIR SHOPS Witnesses: Timothy Wood, Assistant Attorney General Janet Chaney, Executive Director, Oregon Autobody Craftsman Association Dave Luehr, Secretary, Oregon Autobody Craftsman Association and body shop owner, Salem Mace Monroe, Precision Body and Paint, Beaverton Steve White, Portland Community College Pat Brady, representing auto wreckers Joanne Peterson, Motor Vehicle Division (Testimony on HB 2297 and HB 2298 are mixed throughout meeting)

The following are hereby made a part of these minutes: Preliminary Staff Measure Summary (EXHIBIT D; Legislative Fiscal Analysis (EXHIBIT E).

118 TIM WOOD, Assistant Attorney General, Oregon Department of Justice, submits and summarizes a prepared statement on HB 2298 indicating the Justice Department has no position on the bill, and requesting that funds for enforcement be appropriated if the bill should pass (EXHIBIT F).

131 REP. NAITO: Are auto mechanics covered under these bills, or is it just body work?

136 MR. WOOD: You need to look at the legislation.

148 JANET CHANEY, Executive Director, Oregon Autobody Craftsman Association, submits and reads a prepared statement in support of HB 2298 explaining the provision and reasons for introducing it (EXHIBIT G).

221 DAVE LUEHR, Secretary, Oregon Autobody Craftsman Association, and body shop owner in Salem: >HB 2298 will create some new standards that are badly needed. >Consumers need protection from unsafe repairs. >Bill would require training which is available locally. >Bill would help consumers and industry by providing a standard.

307 VICE CHAIR RIJKEN: How did you come up with the fee?

310 MS. CHANEY: I think it was taken from another state which has licensing; we have not done a fiscal study.

318 REP. BARNES: What do you mean by "autobody craftsman," is it all encompassing as it pertains to repair of automobiles?

323 MR. LUEHR: I think Mr. Wood used the term many times, but we are referring to the structural and body repairs of the vehicle and not so much the mechanical aspects although that does overlap in a lot of instances.

331 MS. CHANEY: This is exclusively for collision repair shops. I think "autobody craftsmen" refers to the collision repair shop.

341 REP. BARNES: Do we also license people who work on the engines, transmissions and brakes?

346 MACE MONROE, Precision Body and Paint, Beaverton: Mechanical damages are generally sublet items. The autobody shop is still responsible for the standard of quality. The sublet shop's responsibility is only to the autobody shop who contracted for the job.

347 REP. OAKLEY: How many states have this board?

MS. CHANEY: There are only two that we know of. They are New Hampshire and Nevada.

371 MR. LUEHR: Many states are trying to enact a bill such as this.

378 REP. STEIN: On the face, this sounds like a good idea. Have you tried to bring this forth before and what happened, and why have you decided this is the time to do it?

381 MS. CHANEY: This is the first time and we see the need being stronger than ever to license the body shops because today's automobile has so much technology that if it is not repaired properly it is a life threatening situation to the passengers in the car. There are no standards at this time and that is what we are trying to create.

394 REP. STEIN: There is no licensing requirements to work on an

engine. Do they rely on the Unfair Trade Practices Act to remedy the problems.

398 MS. CHANEY: That is correct.

399 REP. OAKLEY: Have other states handled this in a different way and been successful?

404 MS. CHANEY: Not to my knowledge. I think we will see more of this legislation coming.

405 MACE MONROE, General Manager, Precision Body and Paint, Beaverton: We are not members of the Autobody Craftsman Association; we are an independent shop. We support HB 229 8 because it will bring about a mature responsible industry and give us the tools to self govern. The bill addresses four concerns: health of the employee in the work place, damage to the environment, unsafe collision repairs and consumer fraud.

TAPE 6, SIDE A

052 REP. WALDEN: Are you informing agencies such as OROSHA, Workers Compensation, the Boiler Makers, fire departments and the EPA of these incidents?

060 MR. MONROE: There are 800 shops in Oregon. OROSHA has done 20 inspections. Four of those were at our location.

066 REP. WALDEN: How many accidents have resulted from improperly repaired vehicles?

072 MR. MONROE: We don't know how many.

087 REP. WALDEN: What kind of training would you require?

096 MR. MONROE: The technology is moving very rapidly. I would recommend proper training at the community college level. There are ICAR (Inter-Industry Conference on Collision Repair) classes which continually update the industry. I also believe there is a need for an on-the-job apprenticeship program which we don't have now.

118 MS. CHANEY: ICAR includes the insurance industry, the collision repair industry and the automobile manufacturers. ICAR is 10 years old and is the nation-wide standard for collision repair training. We do that through our body shops and we hold classes in the evenings, on weekends and sometimes through the community colleges. We have our own instructors that are trained from the National ICAR office in Chicago.

121 REP. BARNES: Would you comment on the impact of economic development? What are the start-up costs for entrepreneurs who want to get into the business?

140 MS. CHANEY: To start a shop to comply with DEQ requirements, it is a major investment.

MR. MONROE: It would be determined by the degree of work the shop would want to do and what would be sublet. A young person could start doing only part of the work.

162 REP. BARNES: Would the association do in-house training?

MR. MONROE: We are not a member of the association. There are on-going classes for updating information on collision repair. The information also comes from the manufacturers and there are classes offered.

187 MS. CHANEY: We, as an association, will promote ICAR training

because it has created some national standards and they have a good program. There is an ICAR certification for participants of the program.

191 STEVE WHITE, a teacher in the Autobody Department, Portland Community College: We support HB 2298. We provide a broad based educational program that covers safe, tested techniques and include right-to-know information for the safety and health of the employees. Hopefully our people go to work for some of these people under an unofficial apprenticeship program. We like to see them go to work for someone and continue their education. There are several facilities in the Portland area that continue training programs. There are about 300 shops in the Portland area and it is unlikely that more than a small percentage are continually trained and upgraded. As soon as the technique is available we will make it available to our people who we train.

251 REP. WALDEN: Should they also go through post-repair inspection and certification?

270 MR. WHITE: I think it is not unreasonable. If the insurance companies and estimators are included, then that is not an unreasonable thing to assume. Maybe a reinspection by the insurance company is enough.

282 REP. NAITO: Would you see any problem expanding it to automotive repair of all kinds? From your school, have you noticed any problems with other kinds of automotive repairs?

288 MR. WHITE: Suspension is covered by both mechanical and autobody repair shops. There is a definite line drawn between mechanics and auto body repair people. I don't see why one would be any less important than the other.

302 REP. OAKLEY: Do all community colleges offer these courses?

MR. WHITE: There are five at the college level and there aren't many in the high schools. It is expensive to set up the program.

302 PAT BRADY, representing a group of auto wreckers on HB 2297 and HB 2298: Some of the questions brought up were the 80 percent factor--80% of what? "They are in support of both bills, yet they don't see it being fair and equitable to both autobody and auto wreckers." I was hoping to provide some pictures of a work truck that was totaled out by an insurance company with \$700 damage. If it had been a Silverado, it wouldn't have been totaled out. The amount of damage would be the same.

They also feel HB 2298 would give more money to the autobody shops and cause consumers to pay more based on the fact that the insurance companies would total the vehicles. The cost of overseeing the 800 shops at \$300 per shop is about \$240,000 based on the numbers on the amendments it would be \$366,000. It would need to go to Ways and Means to see if the funds are there for these bills.

390 The question on HB 2297, lines 18-21, speaks of a car being totaled through theft and the need to turn title over to DMV within 30 days. What happens if the car is found 90 days later in Los Angeles and I have turned the title in? How do I prove it is my car if I want the vehicle back. The bill doesn't address that issue.

406 HB 2298, line 38 of page 3, says if the insurer says it is 80 percent damaged, it is a totaled vehicle and needs to have totaled on the title. That could be a judgment call on the part of the auto body shop. It is a discretionary call between the insurance company and the auto body people.

TAPE 5, SIDE B

016 Why is there a difference if the insurance company pays the bill (HB 229 8, page 3, line 38)? One of the suggestions from the auto wreckers is to make the bill equal regardless of who pays because sometimes people will not have insurance on the vehicle. One suggestion was to make it, instead of 80 percent, on an equal basis from vehicle to vehicle. They are suggesting it be on a vehicle-by-vehicle judgment call by the insurance companies as to major components and list the major components of the damage. If the car was stolen and there was no damage, why should the vehicle be totaled?

055 JOANNE PETERSON, Motor Vehicle Division, submits and reads a prepared statement pointing out the impacts of HB 2298 on the Motor Vehicles Division (EXHIBIT H).

VICE CHAIR RIJKEN closes the public hearing on HB 2298 and reopens the public hearing on HB 2297.

HB 2297 - REQUIRES INSURERS OR REGISTERED OWNERS TO REPORT TOTALED VEHICLES TO MOTOR VEHICLES DIVISION AND TO SUBMIT CERTIFICATE OF TITLE AND REGISTRATION PLATES IF POSSIBLE Witnesses: Al Elkins, Oregon Autobody Craftsman Association John Ridgeway, Oregon Autobody Craftsman Association Jim Crilly, Portland Sue Ferguson, Oregon Autobody Craftsman Association Martha Flannery, Portland Pete Flannery, Portland Mike King, Oregon Autobody Craftsman Association Jim Dougherty, West Coast Auto Salvage Pat Brady, auto wreckers John Altonen John Powell, State Farm Insurance Companies and North Pacific Insurance Company Joanne Peterson, Dept. of Motor Vehicles (Testimony on HB 2297 and HB 2298 are mixed throughout the meeting.) 099 AL ELKINS, Oregon Autobody Craftsman Association: We have a car outside which has been totaled and repaired poorly which we would like the committee to look at.

107 VICE CHAIR RIJKEN declares meeting in recess from 2:20 p.m. to 2:40 p.m. for purposes of viewing the vehicle purchased by Bob Crilly.

107 VICE CHAIR RIJKEN reconvenes the meeting at 2:40 p.m. for purposes of continuing the public hearing on HB 2297.

114 RANDY DAGEL, owner of a collision repair shop in Portland and member of the Oregon Auto Craftsman Association, submits and explains photographs of damaged and improperly repaired vehicles (EXHIBIT I).

315 REP. WALDEN: What remedy does the consumer ultimately have?

323 MR. DAGEL: The ones I have been involved with are in on-going investigations. The people have not been reimbursed or compensated for their losses. Police have confiscated several vehicles which the people are still making payments on. The only alternative for the consumer is to retain an attorney at their own expense.

There is no way for the state agencies to identify these shops unless they are turned in by someone. So by having a licensing board, the consumer could go to the board.

399 REP. WALDEN: My experience last session dealt more with the contractors board. They have registration, not licensure, to supposedly accomplish this same goal. They have about \$1 million in their kitty yet many in that profession are irate because they are not getting enforcement. I am wondering how effective this mechanism would be since it is similar to the contractors board.

TAPE 6, SIDE B

011 REP. BARNES: Do you have knowledge of transferring vehicle ID tags from one vehicle to another when the vehicle is totaled out.

015 MR. DAGEL: It is easily done. It is getting more difficult because of steps the manufacturers are taking.

055 JOHN RIDGEWAY, owner-operator, John's Frame and Laminate in Gresham, shows schematic of the under side of a vehicle supplied by the manufacturer showing dimensions and specifications for the vehicle, and illustrates the crushing of a pop can comparing the consequences to collision impact of an improperly repaired vehicle.

HB 2298 is to emphasize title branding on a vehicle which has had structural damage. The title to Mr. Crilly's car was not branded and he was not told it had been in a heavy collision. To properly repair the car now would be more than the car is worth. The repair costs due to the original accident were over 100 percent of the value of the car at that time. It should not have gone through the repair and sale process without branding.

088 BOB CRILLY, Portland: This was to be my daughter's car. She put everything she earned the summer before into the down payment and insurance on the car. She is at college in Connecticut now without a car. We are paying \$300 a month for the payment and insurance and can't take it out of the drive way. Since this has happened I have investigated and found out that Oregon is one of the few states that doesn't have a branding law. The car was purchased by a licensed dealer who doesn't have a business, but we bought it from somebody who took him to the auction and bought it. We asked if it had been in an accident and was told the only reason they were selling it was because the insurance was too high. When you see the underside while it is up on the rack the underbody has large dents in the frame and my daughter could be killed in a slow speed accident.

161 REP. STEIN: Have you taken legal action against the person who sold the car?

161 MR. CRILLY: We are in the process now. But if everyone goes by the laws we have now, they can skim by and say there wasn't 80 percent damage--but 80 percent of what. We paid \$6,500 for the car which was \$1,000 over low book. The repairs now would be more than what we paid for the car. The insurance company said damages were \$8,200 and they didn't know the transmission and engine were bad. The cost to replace the engine and transmission is \$3,500 using some of the old parts.

The average cost of a car now is \$16,000. That means if I buy a new car and there is not \$12,800 in damages, it would not be totaled, but if I fix the car for \$5,000 and sell it, is it a \$16,000 car. The dealer will knock \$3,000 to \$4,000 off the price because it has been in a collision and it is going to be worth \$12,000. But the insurance company will say the sticker was \$16,000 and the markup was \$2,000 and therefore it is an \$18,000 car and it is not 80 percent damaged.

In most states, if a car is branded as a "total" and it is put back the way it is supposed to be, you can take it back to DMV, have it recertified and it will be taken off.

272 MR. RIDGEWAY: On a stolen vehicle, even though you don't see cosmetic damage, typically that vehicle has had the heck run out of it. I believe the stolen cars should be branded also.

285 SUE FERGUSON, Ferguson Autobody, Portland, introduces PETE AND MARTHA FLANNERY:

294 MARTHA FLANNERY: I bought a 1983 Honda Civic for my granddaughter for \$2,995. About five days after driving the car, she complained about how the car running and problems with the clutch. The body shop which inspected the car estimated the damage was \$4,500 and felt it was in very bad shape and should not be driven on the road. We also found out the car had been totaled and the title had not been branded. We had to have the car put in storage and buy another car.

334 REP. OAKLEY: Did you buy the car from a private party?

335 MS. FLANNERY: Yes. We asked for our money back and they said that was our problem. It had been damaged when they bought it. They had bought it from a place that had bought it after it had been totaled.

350 PETE FLANNERY: I feel we were wrongfully abused in the purchase of this automobile. The experts told us the car was not safe to be on the road and the expenses to repair it was far more than the purchase price or the worth of the car. We are in litigation. I think there should be legislation to protect the consumers. There are unscrupulous people who go to sales, buy cars, cosmetically repair them and sell them to the public.

380 MS. FERGUSON submits pictures of measuring equipment needed to repair vehicles and pictures of the car purchased by Mr. and Mrs. Flannery to the committee.

TAPE 7, SIDE A

045 REP. BARNES: Are we leading to a public statement that says once a car has been totaled, it loses its entire value?

055 MIKE KING, President, Oregon Autobody Craftsman Association and owner of Mr. King's Auto, Roseburg, submits and reviews a prepared statement in support of HB 229 7 (EXHIBIT J). Passing these two bills would be a significant step in correcting the grievous wrongs and protect the unsuspecting and unprotected consumers of Oregon. Rep. Walden's questions about inspections were good points. This bill and concept originally included a reinspection after repair. The cost of a process of reinspecting every vehicle that is in a collision and the entire infrastructure that would have to be created to physically handle them and the liability involved in certifying the safety of those repairs made it impractical to ask for assistance in getting that started. We would welcome and encourage further consideration of that.

Part of the title branding would identify the vehicle involved in an accident and would allow them to determine if repairs had been done. In the licensing bill, there are provisions for proper zoning, bonding and other aspects which I explain in the statement. Another area was a reinspection program by the State Police. They are very interested in that area for theft investigations, parts which had been stripped and put on other vehicles and tags being put on stolen vehicles.

The Assistant Attorney General spoke somewhat to the value of the vehicle in the proposed amendments. I think the amendments are very fair. The damage would only be to those who would attack the innocent consumers of our state. The confusion in Mr. Brady's testimony on the 80 percent also is cleared up in the Attorney General's suggested amendments. We also will have amendments in that area and will work to clarify the confusion.

153 JIM DOUGHERTY, West Coast Auto Salvage Auction: Approximately 12,000 of these total losses are sold each year to licensed dealers and auto wreckers for parts or rebuild. I agree with HB 2298 in its entirety. >In line 23, the bill talks about 30 days of the day the vehicle became a total. We store approximately 2,200 cars on our lot

and they don't turn in 30 days. I would like to see a change in the time because sometimes a bank is involved or the insurance company can't get the title. >The bill provides for vehicles that are insured and those that are not. It is totaled regardless of who owns it and the same rules should apply to all. >The problems I have heard today is consumers finding deep pockets to pay for damages. In Oregon approximately 80 to 90 percent of all wrecked cars are sold through three salvage pools, one in Eugene and two in Portland. We allow all wrecked cars to be sold through salvage pools. We have the facility to keep records of who consigns that car to us. >I also have a problem with the definition of "total loss." It is a nationwide problem. Our association is working on it, For the benefit of insurance companies there is "constructive total" vehicles that are sold as salvage, but are not a total loss. I would like some consideration for that "constructive total." To make someone responsible, if we sold them with proper paperwork as constructive total, an insurance company would assume the liability for problems down the line. If the rest of the bill goes through it will be repaired by a licensed shop and that should eliminate the problem. It would be easy to trace the car back to the insurance company that said it was a rebuildable car.

212 JOHN ALTONEN, owner of a wrecking yard and a dealer in damaged cars:

My concern with HB 2297 is Section 2 under the definition of "totaled vehicle." What happens when a consumer has 70 percent damage. How is the consumer, whose insurance company wouldn't repair the vehicle the way it should have been, affected? It is still on the road and did not qualify as a "total" and does not meet the provisions of the bill. Section 2 (2), recovered from theft-- what happens to the economic impact and safety factor to him. I think the bill is a good except for the definition of how much a car is damaged. I would like to see it amended to say "any structural damage." That would include any car that goes to a body shop that has any kind of structural repair. If any part of the unibody is replaced, it should be designated as branded. This bill does not address that. Having been in the business of autobody repair, I had many cars come in with \$6,000 to \$7,000 of damages. Economics determined whether that car was a total, not structural damage or safety; the cost to the insurance company was the criteria.

283 REP. WALDEN: Isn't the cost made by the auto repair shop?

284 MR. ALTONEN: The estimate comes from either the insurance company or the body shop. A friend has an insurance estimate of \$1,800 and a very prominent body shop in Portland estimates the damages at \$3,500. The body shop said it had to go on the jig, but the insurance company said no. The car isn't branded, nor will it be branded under this definition yet it will still be on the road and the consumer isn't protected.

323 REP. BARNES: What is the average length of time it takes an insurance company to decide whether the car will be totaled or repaired?

328 MR. ALTONEN: It is less than 30 days, but if it is stolen it is longer than 30 days.

357 REP. BARNES: Even if we brand these cars, are we getting at the safety factor?

361 MR. ALTONEN: No. I sell 500 cars a year because those people want a better buy.

371 REP. BARNES: Do you have a standard for what the 80 percent should be.

373 MR. ALTONEN: I don't agree with the 80 percent. My concern is structural damage. It is no different because of the value to repair

it. It is still substantial heavy damage.

389 JOHN POWELL, State Farm Insurance Companies and North Pacific Insurance Company: We are not opposed to a branding law. We have a concern on page 2, lines 7 - 15 (HB 2297) where it puts us into the license plate business. The committee has received proposed amendments, HB 2297-1, from the Department of Motor Vehicles that gives us an option of destroying the license plates or delivering them to the Department of Motor Vehicles (EXHIBIT K). Our concern is the process on handling the volume of license plates. We would not want to take possession of plates and be responsible for destroying them and the Department would get tired of our shipping them to the Department. That area deserves some attention.

On lines 26 and 27, page 2, it adds a penalty for an insurer who violates Section 4 of the Act to be a violation of "a" provision of the insurance code without specifying what provision of the code. In Section 4 it is already a Class A misdemeanor for violation and by other cross references it is a violation of RICO standards.

TAPE 8, SIDE A

023 REP. WALDEN: What happens with the license plates now?

024 MR. POWELL: I assume they go with the vehicle at the salvage sale.

030 MR. POWELL: Mr. Wood submitted an amendment on the definition of "totaled vehicle." The proposed words "failure to repair" may be a serious problem in that the owner may choose to take a cash settlement and not repair the vehicle.

046 JOANNE PETERSON, Motor Vehicles Division, submits and reviews a prepared statement explaining the current title branding process (EXHIBIT L).

Proposed amendments previously submitted by the Department of Motor Vehicles are hereby made a part of these minutes: HB 2297-2 (EXHIBIT M) and HB 2297-3 (EXHIBIT N).

119 VICE CHAIR RIJKEN declares the meeting adjourned at 4:03 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

EXHIBIT SUMMARY

A - HB 2297, Preliminary Staff Measure Summary, staff B - HB 2297, Legislative Fiscal Analysis, staff C - HB 2297, prepared statement, Timothy Wood D - HB 2298, Preliminary Staff Measure Summary, staff E - HB 2298, Legislative Fiscal Analysis, staff F - HB 2298, prepared statement, Timothy Wood G - HB 2298, prepared statement, Janet Chaney H - HB 2298, prepared statement, Joanne Peterson I - HB 2297, photographs of collision damaged vehicles, Randy Dage J - HB 2297, prepared statement, Michael Kind K - HB 2297, proposed amendments, HB 2297-1, Dept. of Motor Vehicles L - HB 2297, prepared statement, Joanne Peterson M - HB 2297, proposed amendments, HB 2297-2, Dept. of Motor Vehicles N - HB 2297, proposed amendments, HB 2297-3, Dept. of Motor Vehicles