

House Committee on Business and Consumer Affairs Febryart 21, 1991 -
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statements made during this session. Only text enclosed in quotation
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proceedings, please refer to the tapes.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

February 21, 1991
P.M.

Hearing Room F 1:30
Tapes 34 - 35

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

MEMBER EXCUSED: Rep. John Schoon, Chair

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

MEASURES CONSIDERED: HB 2297 WS HB 2217 WS HB 2312 WS

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TAPE 34, SIDE A

In the absence of Chair Schoon, Vice Chair Rijken chairs the meeting.

010 CHAIR RIJKEN calls the meeting to order at 1:35 p.m. and opens the
work session on HB 229 7.

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 Powell, State Farm Insurance
Companies Bill Muir, Oregon Autobody Craftsman Association

010 AL ELKINS, Oregon Autobody Craftsmen Association: We have a new
amendment (EXHIBIT A) which takes the place of HB 2297-5 amendments
(EXHIBIT B). This is the amendment the insurance companies and I have
agreed to include in the definition. It was brought to our attention by
the attorney general's office that the old language was too broad. We
met and concluded this amendment is the wording we would prefer in the
bill. He submits wording for Section 2 as it would be amended (EXHIBIT
C).

039 JOHN POWELL, State Farm Insurance Companies: The amendments
submitted by Mr. Elkins to lines 7-14 on page 1 simply creates one new
subsection.

048 REP STEIN. There was a question on the 80 percent. It is
difficult because 80 percent could be more or less depending on the
vehicle equipment. Have you discussed that?

052 MR. POWELL: The language in (4) deals with vehicles that are not
covered by insurance and is somewhat of a rough estimate. I think it

will be very difficult for the average person to work under that law and will be less than pure because it would refer to a situation where the vehicle had no physical damage insurance and it was damaged. It would then be up to the owner to make these determinations and voluntarily submit the title for branding should the damage be more than 80 percent.

065 REP. WALDEN: What is the penalty if someone doesn't comply as an individual on a non-insured vehicle?

073 MR. ELKINS: It is addressed in Section 4 of the bill, lines 18-21 on page 2.

078 REP. WALDEN: Is the violation the "offense of failure to follow procedures...?"

084 BILL MUIR, Counsel, Oregon Autobody Craftsman Association: This is a Class A misdemeanor.

102 Issues discussed: >Section 2(4) is duplicated from ORS 819.020 and pertains to an uninsured driver. >Section 2(1) and (2) of the proposed amendments are new language.

124 MR. POWELL: Amendments have been distributed which deal with the penalty provision of the bill (EXHIBIT D). Following this discussion today, there will need to be further clarification. The bill originally created a new penalty provision on page 2, Section 7, lines 26 and 27. That penalty would be up to \$10,000. Our concern was that already under the law these violations carried a Class A misdemeanor penalty and possible prosecution under RICO. We would want to do one or the other, either leave the current penalty provisions in the law and not add a new Section 7 or if Section 7 were to be added we would go along with that and delete the Class A misdemeanor and the RICO statutes. Our amendments attempted to leave Section 7 in and apply it to Sections 4 and 5 and delete references to Class A misdemeanor and the RICO statutes. The reason I indicated the amendments are not complete is in the section that deals with individuals who are not insured those individuals are covered by the Class A misdemeanor in lines 14 and 15 which my amendments would delete. In order to have a penalty for that offense we would have to use different language. The Insurance Code would not apply to an individual.

158 REP. STEIN: A violation of the Insurance Code carries a maximum fine of \$10,000 maximum. How does RICO fit in?

160 MR. POWELL: On pages 8 and 9, Section 13 deals with the RICO statutes. Section 4 of this act is added in lines 31 and 32 of page 9. My amendments would delete lines 31 and 32 which refer back to the ORS 819 and 822 statutes. It would eliminate RICO prosecution.

182 MR. ELKINS: Concerning Mr. Powell's amendments, the Oregon Autobody Craftsmen Association recognizes this bill to be a consumer protection bill and we are concerned if any penalty provisions would be removed. Both penalties should stay in the bill. We do not support the amendments and believe the existing statute language is something that needs to remain so consumers can have access to penalty provisions if need be.

202 MR. POWELL, State Farm Insurance Companies: We addressed another area of the bill in our earlier comments. That is the situation involving a stolen vehicle that is not returned within 30 days. If the vehicle was insured, the owner would collect under the policy and when the vehicle is recovered the insurance company would take possession. With our agreed-to language on totaling which Mr. Elkins submitted, that vehicle would automatically become a totaled vehicle even though it might have been driven three miles and put in a barn and be in perfect shape. As we understand it, the Department of Motor Vehicles, in the language on page 2, lines 39 and 40, was to take care of this situation so that a car stolen under those conditions could be treated differently than any other vehicle. We are not sure this language actually does that. We would want to make the record clear that was the intent and as this bill progresses through the process, if we can find words to make

it clearer we will submit them.

235 MR. ELKINS: I agree it perhaps does need to be clarified. In working with the Department of Motor Vehicles they have assured me that with one or two word changes it could become clearer. I don't think it is an obstacle that cannot be overcome.

253 CHAIR RIJKEN closes the work session on HB 2297 and opens the work session on HB 2217

Tape 34, Side A HB 2217 - AMENDS VARIOUS STATUTES GOVERNING LIFE AND HEALTH INSURANCE. Witness:Lewis Littlehales, Insurance Division

248 LEWIS LITTLEHALES: These are the amendments we submitted last week (EXHIBIT E) (now in LC form). On page 1 we are inserting a repealer for ORS 743.715 which contains obsolete provisions which were superseded by the adoption of the Long Term Care Act in 1989. On page 2 the amendment is to enable a person to obtain insurance for the final expenses of an adult who is dependent. On page 3, Section 5, one amendment is to restore the language that grounds for cancellation ought to be in the policy and the other is to make it clear that the time limit on misstatements apply to material misstatements, not to fraudulent misstatements.

On page 3 Blue Cross suggested changing the wording in Section 6, line 33 from "continuation of" coverage to "uninterrupted coverage" to cover the situation when one group policy is replaced by another. The change on page 8 is to the section in which sections in the remainder of the Insurance Code are made applicable to fraternal benefit societies. It deletes the section that applies to property and casualty insurance and should not apply to insurers who deal only in life and health. The amendment on lines 9 and 10 repeals the section mandating minimum benefits for long term care policies.

390 MOTION:REP. STEIN moves that HB 2217, as amended, be sent to the Floor with a DO PASS recommendation.

403 VOTE:In a roll call vote, Reps. Barnes, Naito, Oakley, Stein, Walden and Rijken vote AYE. REP. SCHOON is EXCUSED.

CHAIR RIJKEN declares the motion PASSED.

414 CHAIR RIJKEN opens the work session on HB 2312.

Tape 34, Side A HB 2312 - AUTHORIZES MOTOR VEHICLES DIVISION TO PETITION COURT TO ENJOIN PERSON FROM ACTING AS VEHICLE DEALER IN VIOLATION OF OREGON VEHICLE CODE.

421 WANDA WAHUS, Oregon Independent Auto Dealers Association: We previously presented proposed amendments HB 2312-1 through HB 2312-4 (SEE EXHIBIT F, COMMITTEE MINUTES DATE FEBRUARY 14, 1991). The proposed amendment HB 2312-5 (EXHIBIT

F) will: >drop the fine from \$25,000 to \$5,000 relating to manufactured housing sales >corrects language of drafting >ties down the language on the selling of company vehicles.

TAPE 35, SIDE A

012 REP. STEIN: I have had discussions with all the parties about my concern of entirely exempting people who are in business from selling vehicles without coming under this act. I have been advised by Wanda that she doesn't think this will be a problem. We should pay attention to see if there is a problem that arises from making that blanket exemption for business and if there is a consumer protection problem, I would hope Wanda would advise us of it.

020 MS. WAHUS: We will be the first to do so.

024 REP. NAITO: LEGISLATIVE INTENT is, if we adopt the amendment to allow a business to sell vehicles that are actually used in the

operation of the business, that it would be any business that has a place of doing business, a business license and meet all other requirements of law. If the business were in the primary business of selling or trading vehicles, then it would be required to have a license. We can look at it in a couple of years to ensure that it is working.

036 MOTION:REP. BARNES moves that the HB 2312-5 amendments to HB 2312 BE ADOPTED.

040 VOTE: In a roll call vote REPS. BARNES, NAITO, OAKLEY, STEIN, WALDEN, and CHAIR RIJKEN vote AYE. REP. SCHOON is EXCUSED.

CHAIR RIJKEN declares the motion PASSED.

046 MOTION:REP. BARNES moves that the HB 2312-1, -2, -3 and -4 amendments BE

ADOPTED.

048 VOTE: In a roll call vote REPS. BARNES, NAITO, OAKLEY, STEIN, WALDEN and CHAIR RIJKEN vote AYE. REP. SCHOON is EXCUSED.

CHAIR RIJKEN declares the motion PASSED.

051 MOTION: REP. BARNES moves that HB 2312, as amended, be sent to the Floor with a DO PASS recommendation.

054 VOTE: In a roll call vote REPS. BARNES, NAITO, OAKLEY, STEIN, WALDEN and CHAIR RIJKEN vote AYE. REP. SCHOON is EXCUSED.

055 CHAIR RIJKEN declares the motion PASSED.

063 CHAIR RIJKEN declares the meeting adjourned at 2:08 p.m.

Respectfully submitted, Reviewed by,

Annetta Mullins
Assistant

Terry Connolly
Administrator

EXHIBITS

A -HB 2297, proposed amendment, Al Elkins B -HB 2297, proposed amendment, Al Elkins C -HB 2297, proposed amendment, Al Elkins D -HB 2297, proposed amendment, John Powell E -HB 2217, HB 2217-1 amendments, Lewis Littlehales F -HB 2312, HB 2312-5 amendments, Wanda Wahus