

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

May 16, 1991
P.M.

Hearing Room F 1:30
Tapes 79 - 82

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 2052 WS HB 2081 WS HB 2132 WS HB
2209 WS HB 2299 WS HB 2792 WS HB 2902 WS HB 3117 WS HB 3406 WS HB 3356
WS HB 2637 WS

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TAPE 79, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:43 p.m. and opens the work session on HB 205 2.

HB 2052 PROVIDES PROTECTION FOR PERSONS GIVING CERTAIN INFORMATION IN GOOD FAITH TO STATE BOARD OF ENGINEERING EXAMINERS.

008 TERRY CONNOLLY, Administrator, reviews provisions of the bill and reports that "any proceeding" in Section 1 does include any future court case. It is the belief of Legislative Counsel that the language in the bill as drafted would best fit this measure. If "answerable" were changed to "liable" it would remove case law. It is their belief that the language as written is similar to language used for other boards.

030 MOTION: REP. BARNES moves that HB 2052 be sent to the Floor with a DO PASS recommendation.

032 REP. NAITO: I think it would be our intent to fully protect the person who comes forward in good faith to make a complaint against another person. I would hope it would be the consensus of the committee that if that person themself had been involved in any wrong doing we would not want this to be used as a shield to protect that person from civil penalties.

045 CHAIR SCHOON: IT IS NOT THE COMMITTEE'S INTENT TO PROTECT PEOPLE WHO MAY HAVE BEEN GUILTY OF SOME VIOLATION THEMSELVES.

050 VOTE: In a roll call vote, all members present vote AYE. REP. OAKLEY is EXCUSED. REP. OAKLEY votes AYE under suspension of rules (Tape 80, Side A at 114).

058 CHAIR SCHOON opens the work session on HB 2081.

(Tape 79, Side A) HB 2081 A-ENG - REVISES PROCEDURE TO FILE CLAIM NOTICE AGAINST PUBLIC WORK CONTRACTOR'S BOND. Witness: Kim Mingo, Associated General Contractors

061 MR. CONNOLLY: HB 2081 was originally heard in this committee. The bill was sent to the Floor with a do pass recommendation and that the bill be referred to the Committee on Revenue and School Finance. Revenue and School Finance held a hearing and referred the bill back to this committee. Revenue originally indicated there may be a revenue impact; they have confirmed there is no revenue impact.

The Committee on Revenue and School Finance Staff Measure Summary, Legislative Fiscal Analysis and Revenue Impact Analysis are hereby made a part of these minutes (EXHIBIT A).

065 CHAIR SCHOON: I chaired the Revenue Subcommittee that heard this bill. There is a very substantial set of amendments that had nothing to do with revenue matters and I felt it was appropriate to refer it back to this committee.

073 KIM MINGO, Associated General Contractors, submits and paraphrases a prepared statement proposing amendments to HB 2081 (EXHIBIT B).

112 CHAIR SCHOON: You bring a new subject area to the committee which was not discussed in a public hearing. I suggest you either look for a bill that relates directly to the subject or save the amendments for next session.

132 MOTION: REP. RIJKEN moves that HB 2081 A-Eng. be sent to the Floor with a DO PASS recommendation.

138 VOTE: In a roll call vote, all members present vote AYE. REP. OAKLEY is EXCUSED. REP. OAKLEY votes AYE under suspension of rules (Tape 80, Side A at 114).

141 CHAIR SCHOON declares the motion PASSED. Chair Schoon will lead discussion on the Floor.

142 CHAIR SCHOON opens the work session on HB 2132.

(Tape 79, Side A) HB 2132 - AUTHORIZES BOARD OF RADIOLOGIC TECHNOLOGY TO IMPOSE CIVIL PENALTY NOT TO EXCEED \$1,000 FOR VIOLATIONS OF STATUTES AND RULES RELATING TO LICENSING OF RADIOLOGIC TECHNOLOGISTS. Witness: Jayne Bailey, Board of Radiologic Technology

145 MR. CONNOLLY reviews the provisions and history of the bill. During a work session a question was raised where the civil penalties should be deposited and it was suggested that language be drafted to have the civil penalties go to the General Fund. The HB 2132-2 amendments include the -1 amendments (EXHIBIT C). The new (7) subsection is the language to place the civil penalties in the board's fund which is in the Health Division's fund in the State Treasury.

158 JAYNE BAILEY, Board of Radiologic Technology: The fiscal impact statement estimates we will get between \$4,000 and \$7,000 during the 1991-93 biennium and anticipate expenses to be \$5,500. We may suffer a loss or there could be a slight increase in revenue for 1991-93.

184 MOTION: REP. NAITO moves that the HB 2132-2 amendments BE ADOPTED.

189 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. REP. OAKLEY is EXCUSED.

190 MOTION: REP. NAITO moves that HB 2132, as amended, be sent to the Floor with a DO PASS recommendation.

205 MS. BAILEY: The revenues are included in the Governor's recommended budget. However, the expenditures are not.

217 VOTE: In a roll call vote, all members present vote AYE. REP. OAKLEY is EXCUSED. REP. OAKLEY votes AYE under suspension of rules (Tape 80, Side A at 114).

220 CHAIR SCHOON declares the motion PASSED. Rep. Naito will lead discussion on the Floor.

229 CHAIR SCHOON opens the work session on HB 2209.

(Tape 79, Side A) HB 2209 - MAKES SUBSTANTIVE AND NONSUBSTANTIVE CHANGES TO STATUTE GOVERNING INSURANCE AGENTS, ADJUSTERS AND CONSULTANTS. Witness: Elaine Day, Insurance Division Dave Nelson, Oregon Life Underwriters Association

231 MR. CONNOLLY reviews the provisions of the bill. The insurance Division will address the HB 2209-2 amendments (EXHIBIT D).

260 ELAINE DAY, Deputy Administrator, Insurance Division: In the 1989 Session, there was a rewrite of the agents licensing law. This bill corrects minor oversights. She reviews an explanation of the hand engrossed bill containing the -2 amendments (EXHIBIT E).

TAPE 80, SIDE A

MS. DAY continues with explanation.

080 DAVE NELSON, Oregon Life Underwriters Association: We have been working with the Insurance Division to clarify the law to make it most applicable and useful for them to regulate the use of the term and title of consultant and to regulate when a consultant could charge a fee to a customer for services not normally associated with a sale of a product. We have been working with other insurance agents associations and those involved in the employee benefits realm. We believe this language accomplishes what we all intended to accomplish and endorse them fully.

097 MOTION: REP. RIJKEN moves that the HB 2209-2 amendments BE ADOPTED.

110 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. All members are present.

110 MOTION: REP. RIJKEN moves that HB 2209, as amended, be sent to the Floor with a DO PASS recommendation.

113 VOTE: In a roll call vote, all members are present and vote AYE.

115 CHAIR SCHOON declares the motion PASSED. Rep. Barnes will lead discussion on the Floor.

114 MOTION: REP. RIJKEN moves to suspend the rules to allow Rep. Oakley to vote on HB 2052, HB 2081 and HB 2132.

VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED.

123 REP. OAKLEY votes AYE on passage of HB 2052, HB 2081 and HB 2132.

125 CHAIR SCHOON opens the work session on HB 2299

(Tape 80, Side A) - (See Also Tape 82, Side A, Page 15 of these minutes) HB 2299 - AUTHORIZES HEALTH DIVISION TO SET FEES BY RULE FOR FOOD SERVICE FACILITIES. Witnesses: Art Keil, Oregon Health Division Rep. John Meek Mike McCallum, Oregon Restaurant Association Jeff Davis, Conference of Local Health Officials Gordon Fultz, Association of Oregon Counties

132 MR. CONNOLLY reviews provisions of the bill. The Health Division has submitted the HB 229 9-4 amendments (EXHIBIT F) and Art Keil will discuss them.

149 ART KEIL, Oregon Health Division: When this bill was heard some time ago it contained the provisions described by Mr. Connolly. In discussing this, it was determined that it would be the committee's choice that the fees be set in the bill and therefore we propose the HB 2299-4 amendments to change the language from the Health Division setting the fees by rule to setting the fee amounts in statute.

The discussion involved the 12 direct service counties that the Health Division provides inspection services for. It was our desire at that time and it is still our desire that we are interested in hiring one additional sanitarian to service the Eastern Oregon counties and the two in Western Oregon. The fees were set to take care of the cost of hiring that one sanitarian.

Our amendment is to raise the full service restaurant fee to \$195, the limited service restaurant fee to \$50, the bed and breakfast fee to \$95 and the temporary restaurant fee to \$75. The \$100 fee was put into statute in 1983. At that time there were two sanitarians in the Pendleton area serving those counties. Because of losses of revenues it has gone down to one person. We are doing less than 50 percent of the statutorily required inspections in those counties.

193 The 12 direct service counties are Baker, Clatsop, Coos, Gilliam, Grant, Harney, Lake, Morrow, Umatilla, Union, Wallowa and Wheeler. The two Western Oregon counties, Clatsop and Coos are served out of the Portland office with management staff.

205 MOTION: REP. STEIN moves that the HB 2299-4 amendments BE ADOPTED.

215 REP. JOHN MEEK: I do support the -4 amendments and support the department's and Legislature's policy to allow local governments to continue their own inspection program if they choose. The -2 and -3 amendments fix the fee statewide at a maximum of \$200. With the local option, most county fees are at a cost basis. This would force the counties to turn it over to the state. The state will have to do inspections which we know are running in excess of \$300 in some cases at a \$200 cost. The problem the department brought to you of not doing an adequate job of inspections will be extended statewide. I would appreciate the bill the way it is being amended. Washington County supports the -4 amendments so they can continue their own inspection program.

253 Issues discussed: >Whether local health departments use program to generate revenue for other county operations. >Eastern Oregon counties inspected by Health Division have not had an outbreak of food poisoning. >Health Division would prefer to have 2.6 or 2.3 FTE sanitarians for the 12 counties. The \$195 fee was a negotiated number.

345 REP. STEIN withdraws her motion.

Issues discussed: >Coordination of activities in foodborne disease outbreak. >Fees are prorated.

393 MR. KEIL: The Health Division only supports the -4 amendments, not the -2 and -3 amendments. Our position has been that the best public health service delivery system is at the county level and we stand by that position.

388 MIKE McCALLUM, Oregon Restaurant Association, submits a prepared statement (EXHIBIT G): The Restaurant Association is very interested in having a consistent and stable food service inspection program statewide. You need to decide what is the best way to deliver that system.

>The State Health Division has the overall authority for the program. >Counties have many different levels of programs. >We think the HB 2299-3 amendments (EXHIBIT H) address the matter properly; they return the inspection authority to the state Health Division and set the fee at \$200. If the fee is not high enough, raise it.

TAPE 79, SIDE B

027 The HB 2299-2 amendments (EXHIBIT I) are a less preferable choice. They at least set a standard for fees.

Issues discussed: >Fee differences among counties. >Differences in frequency and standards of inspections. >Frequency of restaurant inspections and outbreaks of food poisoning or Hepatitis.

088 JEFF DAVIS, Administrator, Marion County and representing the Conference of Local Health Officials: >Between the span from 1987 to 1989, we increased the number of Hepatitis cases in Marion County by 100; only one of those occurred in a restaurant. >Fees among counties do differ. In some counties they do not charge the local health department for rent, travel or certain administrative costs. In those counties, the fee will be lower. Counties have different salary scales. >I know of no county that is using fees for anything other than food related programs. >Food inspection program is also connected with inspections of tourists accommodations, pools and spas. >A positive advantage in addressing a foodborne disease outbreak is the communicable disease section of the health department is called in to do inspection. It is our belief the best protection of public health is when you have the local combination.

150 GORDON FULTZ, Association of Oregon Counties: From the county commissioners' standpoint, we would concur with Mr. Davis' remarks on the reason for the variation in fees. Washington and Jackson counties have gone through an elaborate study of all costs related to everything that they do. They have pinpointed their costs administratively including county counsel's time or whatever time is related to that function.

I know of no county that uses the fees for anything other than the restaurant inspection programs. If they are, we are going against the law and it should be challenged.

Every county is required to have a local advisory committee. Many of those consist of restaurant owners and from our knowledge a good number of them are very supportive of the county's involvement in the program.

Our association would support work with the industry to find consistency of inspections.

180 CHAIR SCHOON temporarily closes the work session on HB 2299 and reopens it temporarily. The -2 amendments addresses the fee on line 14 and the Health Division was asking for a change in the other fees in lines 15 and 16. Why did you not also address those?

203 MR. McCALLUM: We represent the full service restaurant industry and we didn't have Mr. Keil's amendments. If he feels those fees are necessary to cover his costs, that would be no problem with us.

210 CHAIR SCHOON closes the work session on HB 2299.

208 CHAIR SCHOON opens the work session on HB 2792.

(Tape 79, Side B) HB 2792 - AUTHORIZES DENTAL HYGIENIST UNDER GENERAL SUPERVISION OF DENTIST TO ENGAGE IN PRACTICE OF DENTAL HYGIENE IN ANY PLACE WHERE LIMITED ACCESS PATIENTS ARE LOCATED.

220 MR. CONNOLLY reviews provisions of the bill and advises that the HB 279 2-1 amendments (EXHIBIT J) are proposed by Rep. Rijken.

218 REP. RIJKEN: I have talked to the Dental Association and the Dental Hygienists and they agree to the amendments. She reviews the amendments.

297 MOTION: REP. RIJKEN moves that the HB 2792-1 amendments BE ADOPTED.

300 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. REP. STEIN is EXCUSED.

302 MOTION: REP. RIJKEN moves that HB 2792, as amended, be sent to the FLOOR with a DO PASS recommendation.

305 VOTE: In a roll call vote, all members present vote AYE. REP. STEIN is

EXCUSED. REP. STEIN votes AYE under suspension of rules (See Tape 81, Side A at 313).

315 CHAIR SCHOON declares the motion PASSED. Rep. Rijken will lead discussion on the Floor.

323 CHAIR SCHOON opens the work session on HB 2902.

(Tape 79, Side B) HB 2902 - SUBJECTS CONTRACTS OF TELECOMMUNICATIONS UTILITIES ABOVE CERTAIN MONETARY AMOUNT TO REVIEW BY PUBLIC UTILITY COMMISSION.

323 MR. CONNOLLY reviews provisions and history of the bill.

340 MOTION: REP. BARNES moves that HB 2902 be sent to the Floor with a DO PASS recommendation.

345 VOTE: In a roll call vote, all members present vote AYE. REP. STEIN is

EXCUSED. REP. STEIN, under suspension of rules, votes NO (See Tape 81, Side A at 313).

349 CHAIR SCHOON declares the motion PASSED. Rep. Oakley will lead discussion on the Floor.

354 CHAIR SCHOON opens the work session on HB 3117.

(Tape 79, Side B) HB 3117 - REQUIRES AUTOMOBILE MANUFACTURER WHO REPURCHASES AUTOMOBILE TO DISCLOSE REPURCHASE TO DEALER TO WHOM AUTOMOBILE IS DELIVERED FOR SALE.

365 MR. CONNOLLY reviews provisions of the bill. Rep. Mannix submitted the HB 3117-1 amendments at the hearing held by Subcommittee No. 3. The committee has had the -2 (EXHIBIT K) and -3 (EXHIBIT L) amendments drafted to address private party sales.

386 REP. NAITO: Rep. Mannix presented the bill to the subcommittee. As written the bill requires the manufacturer to give information to the dealer that the car is a lemon. Rep. Mannix proposed to include (2) to require the dealer to give the information to the purchaser of the vehicle. I also wanted to include that any owner of the automobile who had been given the information, to keep the chain going, give the information to any perspective buyer of the vehicle.

Section 2 was added at the request of Rep. Mannix and the Attorney General's office. They were concerned that it not come under the provisions of the Unlawful Trade Practices Act because there would be a fiscal impact for investigation. He wanted to keep this a private action for the purchaser to rescind the contract or obtain damages if the car could be repaired. Section 2 includes a provision that a person who prevails in an action of this type is entitled to an award of attorney fees and costs.

TAPE 80, SIDE B

001 REP. BARNES: A lemon car can be corrected, but as I interpret your amendments you are saying once the car is tagged as a lemon it will always be a lemon.

011 REP. NAITO: We thought of that by saying if it has been corrected, the purchaser would be informed it was a lemon and it has been corrected.

044 MOTION: REP. NAITO moves that the HB 3117-3 amendments BE ADOPTED.

047 VOTE: CHAIR SCHOON, hearing no objection, declares the motion PASSED. REP. STEIN is EXCUSED.

047 MOTION: REP. NAITO moves that HB 3117, as amended, be sent to the Floor with a DO PASS recommendation.

050 VOTE: In a roll call vote, all members present vote AYE. REP. STEIN is

EXCUSED. REP. STEIN votes AYE under suspension of rules (See Tape 81, Side A at 313).

052 CHAIR SCHOON declares the motion PASSED.

064 CHAIR SCHOON opens the work session on HB 3356.

(Tape 80, Side B) HB 3356 PROHIBITS EXHIBITION OF COMMERCIALS WITH MOTION PICTURES AFTER TIME THAT MOTION PICTURE IS ADVERTISED TO BEGIN.

071 REP. NAITO: The movie theater owners objected to the bill because they said it is too hard to change the tape and it keeps the cost of the film down. We present the HB 335 6-2 amendments (EXHIBIT M) for the committee's consideration. The amendment would require disclosure in the advertising for the motion picture that says "commercials may be shown." It would give the consumer the option of going to see the film and also the price would be reflective of whether the commercials would be shown. It is not my intent to set up a governmental body to administer this. I simply provide for a consumer to have a cause of action in Small Claims Court for \$200.

138 Issues discussed: >Whether advertisement must indicate commercials may be shown if the advertisements are shown prior to show time and during intermission. >The amended format is preferable to the theater owners, but that is not to say they would support this bill. >Whether this will encourage more advertising by theaters.

216 MOTION: REP. NAITO moves that the HB 3356-2 amendments BE ADOPTED.

220 REP. WALDEN: I will oppose the amendments for a couple of reasons. I think it is an issue that can be settled in the market place. I believe the -2 amendments, in Section 1 (1) defines what advertising is and Section 2 of the amendments only describe printed advertising.

The issue seems to talk about all advertising for any motion picture. How does this apply to national advertising promoting a picture?

233 REP. NAITO: My intent was to limit it to written advertising for the motion picture. I think most people decide to go to a theater based on a newspaper that lists the times.

261 REP. NAITO: My intent in Section 2 is that advertising for the exposition of the motion picture is limited as defined in Section 1.

269 REP. WALDEN: You might want to change "all advertising" to "all print advertising."

270 MOTION: REP. NAITO moves to amend her previous motion and that the HB 335 6-2 amendments be amended on line 5, after "all" insert "print" and the amendments BE ADOPTED..

282 REP. BARNES: I have been torn between the prerogatives of a motion picture theater owner and the consumer in a free market system. The free market should take care of it, but since it is being limited to print advertising, I will probably vote for it, but don't feel comfortable about getting into the free market system.

291 REP. OAKLEY: I will be objecting to the amendment as amended.

294 VOTE: In a roll call vote, REPS. BARNES, NAITO, STEIN, RIJKEN and CHAIR

SCHOON vote AYE. REPS. OAKLEY and WALDEN vote NO.

298 CHAIR SCHOON declares the motion PASSED.

298 MOTION: REP. NAITO moves that HB 3356, as amended, be sent to the Floor with a DO PASS recommendation.

305 REP. WALDEN: I have a concern that if somebody forgets to put in the disclaimer, there could be several hundred, if not a thousand people at the window to collect their \$200.

324 REP. BARNES: How would the courts look at this. What defense could the motion picture theater owner have?

331 REP. NAITO: I think the owners would be careful in advertising. It does have to go to Small Claims and a person would have to put out \$70 of filing fees to pursue it.

353 VOTE: In a roll call vote, REPS. NAITO, STEIN, RIJKEN and CHAIR SCHOON vote AYE. REPS. BARNES, OAKLEY and WALDEN vote NO.

360 CHAIR SCHOON declares the motion PASSED. Rep. Naito will lead discussion on the Floor.

374 CHAIR SCHOON opens the work session on HB 2637.

(Tape 80, Side B) HB 2637 - MODIFIES JURISDICTION OF STATE BOARD OF CHIROPRACTIC EXAMINERS. Witnesses:Christie Joachim, Board of Chiropractic Examiners Chuck Bennett, Oregon Chiropractic Physicians

Association Chris Davie, SAIF John Powell, State Farm Insurance Companies, Blue Cross-Blue Shield and Health Insurance Association of America

394 MR. CONNOLLY reviews the provisions of the bill. The HB 2637-1 amendments (SEE EXHIBIT B OF COMMITTEE MINUTES DATED MAY 9, 1991) were adopted on May 9 and discussion began on the HB 2637-2 amendments (SEE EXHIBIT C OF COMMITTEE MINUTES DATE MAY 9, 1991). The amendments in the hand-engrossed bill (SEE EXHIBIT D OF COMMITTEE MINUTES DATED MAY 9, 1991) are now the HB 2637-3 amendments (EXHIBIT N). Discussion focused on Section 17 of the -2 amendments and it was suggested additional information should be obtained from the insurance industry and the State Accident Insurance Fund concerning the review or evaluation of services.

458 CHRISTIE JOACHIM, Board of Chiropractic Examiners: The -2 amendments are from Chuck Bennett. We had other amendments which were in the hand engrossed bill and are now the -3 amendments. The -3 amendments put the fees in statute and deletes the language which would allow fees to be put in administrative rule.

TAPE 81, SIDE A

032 MR. BENNETT, Oregon Chiropractic Physicians Association: The problem the insurance industry apparently has in dealing with the idea that people who are both licensed in Oregon and qualified to make a review should make reviews. I suspect you will hear the traditional problem that it costs too much to hire qualified people to do the reviews. If that is a problem with this bill, we will have it removed rather than have the bill slow down. At some point this Legislature should come to gripes with whether you want to have the cases of injured people reviewed by qualified people or by secretaries or whomever they decide to hire.

I have been talking to other provider groups and we are beginning to talk about bringing to the Legislature a bill to deal with this next session. That may be a more appropriate way to do it than one group doing it at a time.

058 CHRIS DAVIE, SAIF Corporation, submits and summarizes a prepared statement in opposition to the HB 2637-2 amendments (EXHIBIT O).

Issues discussed: >SAIF does not use out-of-state chiropractic examiners to review Oregon chiropractic treatment. Language would go beyond that review. >Review by non-medical people. >Claims adjusters make these kinds of decisions every day. Often they are based on established guidelines in the administrative rules of the Workers Compensation Division. >There is no legal requirement that SAIF obtain medical evidence, but it would be foolish to make a decision without it because the decision would not hold up on any kind of appeal. >Can find no legal definition of "review" or "evaluation."

151 JOHN POWELL, State Farm Insurance Companies, Blue Cross-Blue Shield of Oregon and Health Insurance Associations of America: For the same reasons Mr. Davie pointed out, we would oppose this subsection. It is important to understand, not only in the case of billings, but in the independent medical exams in an injury case where there is controversy, medical providers have been involved and there is a medical history. There are files and notes that accompany the process. Whether or not one has to be somebody licensed at the top of the medical scale to do an initial review and evaluation is an important concept. The vast majority of insurance claims with my clients are paid promptly. To have a system that would require a licensed person, either chiropractor or medical doctor, to make the initial cut and authorize payment and make the first evaluation is incredulous. One often hires another chiropractor to review those files.

217 CHAIR SCHOON: I suggest the chiropractors bring us a bill. I am not sure we have the time or ability to get deep enough into the problem of evaluations and review.

226 MOTION: CHAIR SCHOON moves that the HB 2637-2 amendments be amended to delete (c), lines 4 through 7 on page 2 and that the amendments as amended BE ADOPTED.

240 CHAIR SCHOON asked that the issue be included on the list of possible interim studies.

244 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. REPS. NAITO and OAKLEY are EXCUSED.

247 MOTION: CHAIR SCHOON moves that the HB 2637-3 amendments BE ADOPTED.

262 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. REP. NAITO is EXCUSED.

265 MOTION: CHAIR SCHOON moves that HB 2637, as amended, be sent to the Floor with a DO PASS recommendation.

299 VOTE: In a roll call vote, all members present vote AYE. REP. NAITO is

EXCUSED.

302 CHAIR SCHOON declares the motion PASSED.

332 MOTION: REP. STEIN moves that the rules be suspended in order that she be allowed to vote on HB 2792, HB 2902 and HB 3117.

VOTE: CHAIR SCHOON, hearing no objection, declares the motion PASSED. REP. NAITO is EXCUSED.

338 REP. STEIN votes AYE on HB 2792 and HB 3117 and votes NO on HB 2902.

346 CHAIR SCHOON opens the work session on HB 3406.

(Tape 81, Side A) HB 3406 - REGULATES RELATIONSHIP BETWEEN SUPPLIER AND RETAILER OF FARM IMPLEMENTS. Witness: John McCulley, Pacific Northwest Association

363 MR. CONNOLLY reviews provisions of the bill. John McCulley has provided the HB 3406-5 amendments (EXHIBIT P) and the hand-engrossed bill (EXHIBIT Q) which contain the -5 amendments. The -4 amendments presented at the subcommittee meeting are included in the -5 amendments.

388 JOHN McCULLEY, Pacific Northwest Association: HB 3406 deals with the relationship between the local farm equipment dealer and the manufacturer. The -5 amendment speak to issues that were brought before the subcommittee and addresses three further recommendations that the subcommittee had for changes in the bill. >Section 1 relates to the definitions in the bill. The subcommittee was concerned about a more clear definition of lawn and garden equipment. It was our intent that it be power equipment. The retailer agreement is added to the definitions. The word "oral" has been deleted in the -5 amendments and it should be "written agreement." Section 3 outlines the supplier's responsibilities relative to the relationship with the equipment dealer. On page 2, in the second line 4, we have used the term "act of nature" and defined it in lines 7-9 to address another issue raised by the subcommittee.

Section 4 details the grounds for termination of the agreement and requires certain time lines to be met. Section 5 is being deleted from

the bill. It dealt with the issue of return parts. We have an existing statute that talks about this. Section 6 would also be eliminated. It relates to passing on of the business in the event of death or incapacity of the dealer. We have addressed this in Section 3.

TAPE 82, SIDE A

026 The new Section 5 talks about damages and attorney fees and allows the dealer to enjoin the supplier from certain actions. Sections 6, 7 and 8 are amendments to existing statutes and substitute the term "retailer agreement" for "contract" within the statutes.

090 MOTION: REP. BARNES moves that the HB 3406-5 amendments BE ADOPTED.

104 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. REP. WALDEN is EXCUSED.

105 MOTION: REP. BARNES moves that HB 3406, as amended, be sent to the Floor with a DO PASS recommendation.

107 VOTE: In a roll call vote, all members present vote AYE. REP. WALDEN is EXCUSED.

110 CHAIR SCHOON declares the motion PASSED. Rep. Oakley or Rep. Norris will lead discussion on the Floor.

116 CHAIR SCHOON opens the work session on HB 2299.

(Tape 82, Side A) (See also Tape 80, Side A at 125 and Page 5 of these minutes) HB 2299 - AUTHORIZES HEALTH DIVISION TO SET FEES BY RULE FOR FOOD SERVICE FACILITIES.

117 REP. BARNES: I have received several calls from restaurant people from throughout the state. It seems there is a lack of consistency, either the Health Division is not doing a good enough job or the counties are doing it with an over kill. I am not convinced that the counties are not using some of these fees to subsidize other activities. I don't think that is right.

131 MOTION: REP. BARNES moves that the HB 2299-3 amendments (EXHIBIT H) BE ADOPTED.

148 CHAIR SCHOON: Would you comment on the fiscal impact of the -3 amendments?

150 MR. KEIL: We have not done a fiscal impact on the -3 amendment. Were the Health Division to become responsible for doing a complete statewide program, I would guess it would require in the neighborhood of 35 and 45 FTEs.

170 REP. STEIN: I will oppose the -3 amendments. There may be a problem in certain counties where the fees subsidize other kinds of programs. That is a local issue. If we are going to take all the services for which fees are levied at the local level that may conceivably be used to subsidize other programs, we are going to take on a lot of stuff at the state level. I would much rather see the programs stay at the local level.

180 REP. RIJKEN: I will oppose the -3 amendments also. The use of the fees for other programs is a local issue and I would like to keep it there.

187 REP. BARNES: It seems the state does it more efficiently and effectively and they haven't had any outbreaks. I am not eager to take things away from counties, but it has gone on long enough. It seems somehow we have to force the counties to do it more efficiently and

effectively.

201 REP. OAKLEY: We would see more consistency through one program.

239 REP. NAITO: I will also oppose the -3 amendments. It is difficult because we want uniformity, but I think the local level has the flexibility to respond to the immediate needs of the community.

252 VOTE: In a roll call vote, REPS. BARNES and OAKLEY vote AYE. REPS. NAITO, STEIN, RIJKEN and CHAIR SCHOON vote NO. REP. WALDEN is EXCUSED.

255 CHAIR SCHOON declares the motion FAILED.

258 MOTION: REP. STEIN moves that the HB 2299-4 amendments (EXHIBIT F) BE ADOPTED.

Issues discussed: >How to equalize fees. >Delegation of program to counties.

386 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. All members are present.

388 CHAIR SCHOON: Is there any interest on the committee for incorporating lines 14 and 15 of the -2 amendments (EXHIBIT I) which have the effect of establishing a statewide fee schedule? It would limit the counties to the fee we are setting for the state.

419 REP. NAITO: If we had heard testimony that counties are using the fees and that this is a big problem, I would consider that. I am sensitive in light of Ballot Measure 5 to imposing limits on what counties can charge.

TAPE 81, SIDE B

002 REP. STEIN: I think things are different in each county and that is the point of having local government. They can go to their county commissioners and complain.

008 REP. BARNES: I am for having a standardized fee across the board that is sufficient for the state to do their job. But it also requires some efficiencies on the part of county government. There are enough complaints to me that the restaurants feel they are subsidizing other things in county government. If that is the case, it is a tax.

022 REP. RIJKEN: Counties may be charging more than it takes to run the program and if it is the case, it should be dealt with locally and I will not support the amendment.

070 MOTION: REP. RIJKEN moves that HB 2299, as amended, be sent to the Floor with a DO PASS recommendation.

073 VOTE: In a roll call vote, REPS NAITO, STEIN, RIJKEN and CHAIR SCHOON vote AYE. REPS. BARNES, OAKLEY AND WALDEN vote NO.

076 REP. OAKLEY serves notice of a possible Minority Report.

080 CHAIR SCHOON declares the meeting adjourned at 4:37 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly Assistant

Administrator

EXHIBIT SUMMARY

A -HB 2081, Senate Staff Measure Summary, Legislative Fiscal Analysis and Revenue Impact Analysis, staff B -HB 2081, prepared statement, Kim Mingo C -HB 2132, HB 2132-2 amendments D -HB 2209, HB 2209-2 amendments, Insurance Division E -HB 2209, amendment explanation, Elaine Day F -HB 2299, HB 2299-4 amendments, Art Keil G -HB 2299, prepared statement, Mike McCallum H -HB 2299, HB 2299-3 amendments, Mike McCallum I -HB 2299, HB 2299-2 amendments, Mike McCallum J -HB 2792, HB 2792-1 amendments, Rep. Rijken K -HB 3117, HB 3117-2 amendments, committee L -HB 3117, HB 3117-3 amendments, committee M -HB 3356, HB 3356-2 amendments, Rep. Naito N -HB 2637, HB 2637-3 amendments, Christie Joachim O -HB 2637, prepared statement, Chris Davie P - HB 3406, HB 3406-5 amendments, John McCulley Q -HB 3406, hand-engrossed HB 3406, John McCulley