

HOUSE COMMITTEE ON JUDICIARY

May 7, 1991 Hearing Room 357 1:00 p.m. Tapes 40 - 41
MEMBERS PRESENT: Rep. Randy Miller, Chair Rep. Tom Mason, Vice Chair
Rep. Ray Baum Rep. Judith Bauman Rep. Marie Bell Rep. Kelly Clark Rep.
Jim Edmunson Rep. Rod Johnson Rep. Kevin Mannix Rep. Del Parks Rep. Ron
Sunseri

MEMBER EXCUSED: Rep. Tom Brian STAFF PRESENT: Greg Chaimov,
Committee Counsel Holly Robinson, Committee Counsel Jim Dole, Assistant
Committee Counsel Jeff Steve, Committee Assistant MEASURES
CONSIDERED: HB 3237 WS (Criminal Procedure) SB 620 WS (Criminal
Procedure) HB 3526 WS (Statutes of Limitations) HB 3039 WS (Peyote) SB
228 WS (Civil Penalties) SB 505 WS (Liability) HB 3034 WS (Forfeiture of
Vehicles) HB 3318 WS (Sex Offenses Against Children) HB 3312 WS (Post
Prison Supervision) HB 3319 WS (Certain Nonprofit Corporations) SB 401
WS (Foreign Money Claims) SB 405 WS (Real Property) HB 3432 Ws (Certain
Nonprofit Corporations) HB 3317 WS (Juveniles) HB 2708 WS (Guardianship)
SB 507 WS (Crime) 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.

TAPE 40, SIDE A

003 REPRESENTATIVE MILLER, CHAIR: Calls the meeting to order at 1 :20
p.m.

HB 3272 - NOTIFICATION OF RELEASE OF CONVICTED PERSONS - WORK SESSION
017 HOLLY ROBINSON: Summarizes HB 3272. EXHIBIT A (HB 3272-1
Amendments)

025 MOTION, REP. CLARK: Moves adoption of HB 3272-1 Amendments.

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027 VOTE: No objection. Motion passes. 032 MOTION, REP. CLARK:
Moves HB 3272 as amended to Floor with a ~do passn recommendation.

040 VOTE: 9 - 0 Motion passes. Rep. Minnis to carry.

AYE: Baum, Bell, Clark, Edmunson, Johnson, Mason, Parks, Sunseri, Miller
NO: 0 EXCUSED: Bauman, Brian, Mannix

SB 620 - PROCEDURES FOR IMPOSING MISDEMEANORS - WORK SESSION 043
CHAIMOV: Summarizes SB 620.

051 MOTION, REP. EDMUNSON: Moves SB 620 to Floor with a "do pass"
recommendation. 058 VOTE: 10 - 0 Motion passes. AYE: Baum, Bauman,
Bell, Clark, Edmunson, Johnson, Mason, Parks, Sunseri, Miller NO: 0
EXCUSED: Brian, Mannix

HB 3526 - STATUTE OF LIMITATIONS - WORK SESSION

061 HOLLY ROBINSON: Summarizes HB 3526. 072 MOTION, REP. BELL:
Moves HB 3526 to Floor with a "do pass" recommendation. 078 VOTE: 10
- 0 Motion passes. Rep. Bell to carry.

AYE: Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mason, Parks,
Sunseri, Miller NO: 0 EXCUSED: Brian, Mannix

SB 228 - NONCOMPLIANCE WITH NATURAL GAS SAFETY REGULATIONS - WORK SESSION

085 CHAIMOV: Summarizes SB 228.

095 MOTION, REP. CLARK: Moves SB 228 to Floor with a "do pass" recommendation. 110 VOTE: 10 - 0 Motion passes. Rep. Brian to carry.

AYE: Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED: Brian, Mannix House Committee on Judiciary May 7, 1991 - Page 3 SB 505 - SIGNALING DEVICES FOR WILDERNESS TRAVEL - WORK SESSION

124 CHAIMOV: Summarizes SB 505.

131 MOTION, REP. SUNSERI: Moves SB 505 to Floor with a "do pass" recommendation. 137 VOTE: 10 - 0 Motion passes. Rep. Miller to carry.

AYE: Baum, Bauman, Bell, Clarlc, Edmunson, Johnson, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED: Brian, Mannix

139 REP. MASON: The genesis of SB 505 was the tragedy that occurred on Mount Hood last year where a number of students died.

HB 3304 - PILOT PROGRAM FOR CONFISCATION AND FORFEITURE - WORK SESSION

146 CHAIMOV: Summarizes HB 3304. EXHIBIT B 159 MOTION, REP. CLARK: Moves adoption of HB 3304-3 Amendments.

161 REP. PARKS: If you were driving someone else's car would this still apply.

164 CHAIMOV: There are mechanisms in HB 3304 to prevent confiscation of an owner's car where he or she can prove they were not driving.
167 REP. MASON: Wants to cut off security interests as well. Approves bill. 193 VOTE: No objection. Motion passes. 194 MOTION, REP. CLARK: Moves H8 3304 as amended to Ways and Means with a "do pass" recommendation. 203 VOTE: 10- 1 Motion passes.

AYE: Baum, Bauman, Bell, Clarlc, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: Edmunson EXCUSED: Brian HB 3039 - USE OF PEYOTE IN RELIGIOUS CEREMONIES - WORK SESSION

208 HOLLY ROBINSON: Summarizes HB 3039. EXHIBIT C

220 REP. JOHNSON: Lines 17, page 2 says that "it is an affirmative defense as long as the peyote is used in a manner that is not dangerous to the health of the user or others in proximity to the user." What level of use of peyote becomes dangerous to the user or those "in close proximity" to the user? House Committee on Judiciar~ Ma' 7, 1991 - Page 4

226 REP. EDMUNSON: We had testimony that in the religious ceremony as practiced, the amounts are small enough that the Drug Enforcement Administration has approved it.

244 REP. JOHNSON: How about danger to others? 246 REP. EDMVNSON: That language was added to prevent the use of the defense in those cases where harm may not occur to the individual, but it may be conceivable that harm could occur as a result of an individual's use of it. 254

REP. JOHNSON: What do the courts say about this?

258 REP. CLARK: The U.S. Supreme Court dealt with unemployment compensation laws, not with the use of the drug itself. HB 3039 is not intended to overturn the Court's decision 279 REP. JOHNSON: What other religions are there that would be included in this? 289 REP. CLARK: None that the Committee heard of.

299 REP. JOHNSON: Is there anything that would prohibit a group of people from forming a new religion to use peyote? 302 REP. CLARK: A panel of jurors would have to determine that the use of peyote is in good faith.

322 CHAIR MILLER: Is it not difficult for a jury to decide that a particular religious practice is in good faith?

361 REP. EDMUNSON: There have been churches that have been shut down for lack of good faith. 366 REP. CLARK: Tried to walk the tight rope between the state's prohibition on establishing a particular religion and the state's right to make accommodation for a religious belief. This is difficult.

393 REP. MANNIX: There already is a statutory scheme in Oregon that recognizes that a fact finder is needed to decide whether certain activities are religious such as drinking wine in communion.

TAPE 41, SIDE A

026 REP. SVNSERI: Does not see the correlation between ingesting wine in a religious ceremony and smoking peyote. There was testimony that taking peyote was to alter the mind. 042 REP. BELL: Voted "no" in subcommittee. Concerned about health and safety. There were no restrictions for children or pregnant mothers. Frequency was indeterminate. 069 REP. CLARK: HB 3039 comes as an affirmative defense. It is not an outright legalization of the use of peyote. This is a question of religious liberty. 104 CHAIR MILLER: Suggests in the phrase on line 17, page 2 concerning the health of the user

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to stipulate what is "dangerous" to the health of the user.

115 REP. BELL: Believes affirmative defense is legislative in a way to get around essential issues of health.

133 REP. MASON: An affirmative defense is not easy to use. The burden of proof is on the one using it, not the state. 153 REP. PARKS: Tremendous difference with respect to affirmative defense. Discusses experience in Klamath County. Has never heard where he is from that there has ever been a problem with smoking peyote.

191 REP. EDMUNSON: Agrees with Rep. Parks and further adds that most anything can be mind altering. The abuse of peyote is sacrilege in this group of people.

246 REP. JOHNSON: What about people who deliver peyote to the church?

Is it an affirmative defense for them to use?

257 REP. EDMUNSON: They would be prosecuted under federal law and under state law they would have an affirmative defense.

265 REP. JOHNSON: How much is peyote used in the religious practice?

272 ROBINSON: The Committee received different information from different sources. Most of the testimony indicated that the peyote was not used by pregnant women and small children.

293 REP. CLARK: The amount of peyote is small and the analogy can be drawn between the use of alcohol in religious ceremonies and peyote.

310 MOTION, REP. CLARK: Moves HB 3039-1 Amendments. 313 VOTE: No objection. Motion passes. 318 MOTION, REP. EDMUNSON: Moves HB 3039 as amended to the Floor with a "do pass" recommendation. 330 VOTE: 9 - 2 Motion passes. Rep. Clark and Edmunson to carry.

AYE: Baum, Bauman, Clar}, Edmunson, Johnson, Mannix, Mason, Parks, Miller NO: Bell, Sunseri EXCUSED: Brian

HB 3318 - OFFICE OF CHILDREN'S OMBUDSMAN - WORK SESSION

340 HOLLY ROBINSON: Summarizes HB 3318. EXHIBIT D

352 MOTION, REP. MANNIX: Moves adoption of HB 3318-1 Amendments.

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356 VOTE: No objection. Motion passes. 357 MOTION, REP. MANNIX: Moves HB 3318 as amended to Ways and Means with a "do pass" recommendation. DISCUSSION ON THE MOTION 384 VOTE: 10- 0 Motion passes.

AYE: Baum, Bauman, Bell, Clark, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED: Brian, Edmunson

HB 3312 - ATTENDANCE AT VICTIM IMPACT TREATMENT SESSION - WORK SESSION

390 HOLLY ROBINSON: Summarizes HB 3312. EXHIBIT E 402 MOTION, REP. MANNIX: Moves adoption of HB 3312-1 Amendments. 403 VOTE: No objection. Motion passes. 405 MOTION, REP. BELL: Moves HB 3312 as amended to the Floor with a "do pass" recommendation. 412 VOTE: 8 - 4 Motion passes. Rep. Bell to carry.

AYE: Baum, Bauman, Bell, Johnson, Mannix, Mason, Sunseri, Miller NO: 0 EXCUSED: Brian, Clark, Edmunson, Parks

TAPE 40, SIDE B HB 3199 - NONPROFIT CORPORATION SUPPORT CLAIMS - WORK SESSION

013 IIM DOLE: Summarizes HB 3199. EXHIBIT F 017 REP. MANNIX: Moves adoption of HB 3199-1 Amendments. 023 MOTION, REP. MANNIX: Moves HB 3199 as amended to the Floor with a "do pass" recommendation. 026 VOTE: 9 - 0 Motion passes. Rep. Johnson to carry. AYE: Baum,

Bauman, Bell, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0
EXCUSED: Brian, Clark, Edmunson 401 - UNIFORM FOREIGN-MONEY CLAIMS ACT
- WORK SESSION House Committee on Judiciary May 7, 1991 - Page 7

028 JIM DOLE: Summarizes SB 401. 032 MOTION, REP. MANNIX: Moves SB
401 to the Floor with a "do pass" recommendation. 036 VOTE: 9 - 0
Motion passes. Rep. Parks to carry.

AYE: Baum, Bauman, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri,
Miller NO: 0 EXCUSED: Brian, Clark

405 ADJUSTABLE RATE INSTRUMENTS - WORK SESSION 045 JIM DOLE:
Summarizes SB 405.

054 REP. PARKS: What dragon are we slaying? What is the problem? 059
REP. BAUM: There are a lot of forms out there concerning real property.
SB 405 requires the provisions of SB 405 to be included uniformly.
068 MOTION, REP. MANNIX: Moves SB 405 to the Floor with a "do pass"
recommendation. 074 VOTE: 11 - 0 Motion passes. Rep. Johnson.

AYE: Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mannix, Mason, Parks,
Sunseri, Miller NO: 0 EXCUSED: Brian

HB 3432 - LIMITS LIABILITY OF NONPROFIT CORPORATION - WORK SESSION

079 JIM DOLE: Summarizes HB 3432. EXHIBIT G 086 MOTION, REP.
MANNIX: Moves adoption of HB 3432-1 Amendments 088 VOTE: No
objection. Motion passes. 090 MOTION, REP. MANNIX: Moves HB 3432 as
amended to the Floor with a "do pass" recommendation. DISCUSSION ON THE
MOTION 110 REP. MANNIX: Under the current liability system everybody
is liable for everything unless there is a limit on liability. That is
what HB 3432 is about. It tries to cautiously limit liability.
135 VOTE: 8 - 3 Motion passes. Rep. Waldan to carry.

AYE: Baum, Bell, Clark, Johnson, Mannix, Mason, Sunseri, Miller NO:
Bauman, Edmunson, Parks House Committee on Judiciary May 7, 1991 - Page
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EXCUSED: Brian HB 2708 - TEMPORARY GUARDIANSHIP - WORK SESSION

141 HOLLY ROBINSON: Summarizes HB 2708. EXHIBIT G 147 MOTION, REP.
MANNIX: Moves adoption of HB 2708-3 Amendments. 151 VOTE: No
objection. Motion passes. 155 MOTION, REP. MANNIX: Moves HB 2708 as
amended to the Floor with a "do pass" recommendation. 165 VOTE: 9 - 2
Motion passes. Rep. Clark to carry.

AYE: Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mannix, Sunseri,
Miller NO: Mason, Parks EXCUSED: Brian SB 570 - COUNTY ASSESSMENT - WORK
SESSION

169 GREG CHAIMOV: Summarizes SB 570.

184 MOTION, REP. MANNIX: Moves SB 570 to the Floor with a "do pass"
recommendation. 197 VOTE: 11 - 0 Motion passes.

AYE: Baum, Bauman, Bell, Clark, Edmunson, Johnson, Manrux, Mason, Parks,
Sunseri, Miller NO: 0 EXCUSED: Brian 210 CHAIR MILLER: Adjourns Full
Committee meeting at 2:30 p.m.

