

Conference Committee on June 28, 1991 - Page

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.

CONFERENCE COMMITTEE ON HB 3098

June 28, 1991Hearing Room E 5:30 p.m.Tapes 1

SENATE MEMBERS PRESENT: Sen. Jim Bunn Sen. Jim Hill Sen. Bob Shoemaker

HOUSE MEMBERS PRESENT: Rep. Peter Courtney, Chair Rep. Kelly Clark Rep. Rod Johnson

STAFF PRESENT: Holly Robinson, Committee Counsel Diane Bassett, Committee Assistant

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TAPE 1, SIDE A

001 CHAIR COURTNEY: Called the meeting to order at 5:30 p.m.

002 HOLLY ROBINSON: Summarized the HB 3098.

013 CHAIR COURTNEY: Understands there is an offer by State Marine Board and perhaps this could resolve some of the problems between the House and the Senate.

015 PAUL DONHEFFNER, DIRECTOR, STATE MARINE BOARD: Proposed an alternative in section 7, page 6 where an implied consent provision is created. In line 36 of that section, they propose to eliminate the word "boat" and limit implied consent to motor boats and sail boats. Implied consent would not apply to non-powered boats, hand powered craft and boats that generally would be viewed as not capable of five knots, which was the language in the House bill. This would limit chemical testing to motor boats and sail boats. They would go with the Senate version of section 4, which is the current statute prohibiting operating under the influence. Wouldn't put the five knot version in. Would go with the Senate version of section 4 which is current law, which applies to all vessels.

036 CHAIR COURTNEY: What are you doing about canoes, rowboats and rafts?

039 DONHEFFNER: Present statute applies to all boats. Wouldn't change ORS 830 .325 to create any exemptions there. So the current prohibition of operating a boat under the influence of intoxicants would still apply to all vessels, including the non-powered vessels.

048 SEN. SHOEMAKER: Why not have it apply to all boats?

051 CHAIR COURTNEY: Question needs to be put to the Committee.

056 REP. CLARK: The concern was at what point do you stop being worried about the safety of others and are we starting to protect people from themselves.

068 SEN. SHOEMAKER: If it were true that you have only one person at all times in such boats, I could understand. There are often passengers perhaps who cannot swim. There are a lot of drownings in hand powered boats.

073 CHAIR COURTNEY: The present law still says something about canoes, rafts and rowboats.

076 REP. PARKS: His position is he feels the breathalizer is a massive intrusion in your life. It is justified in some activities, one of which happens to be driving a car. Don't think you can use that same rationale to intrude in somebody's life if they are in a non-powered boat. Not in favor of extending the government into people's lives, even to help them.

096 MOTION, REP. CLARK: Moved the proposal brought to them by the Marine Board.

100 CHAIR COURTNEY: The exact language was already read. Asked Holly Robinson to repeat the motion.

107 HOLLY ROBINSON: Page 6, line 36 delete the word "boat" and insert "motor boat as defined in 830.005, sub 4, or sailboat". The practical effect of that is that section 4 remains unchanged so that it would still be unlawful to operate a boat under the influence of intoxicating liquors. However, the implied consent statutes would be limited to motor boats and sailboats.

117 SEN. HILL: Can live with that.

119 SEN. BUNN: Understands they are not making it legal to be intoxicated while being in a raft or any kind of a boat. We are not weakening the current law and now the implied consent applies to motor and sail boats.

124 SEN. SHOEMAKER: Is ok with this.

128 REP. CLARK: Supports this amendment.

130 REP. JOHNSON: Can't support.

130 REP. PARKS: Can't support.

132 SEN. BUNN: If it is illegal to operate a boat while intoxicated,

why don't we want to give law enforcement the ability to deal with it effectively? Do you believe we should change the law so you can operate a boat while you are intoxicated?

139 REP. JOHNSON: Certain types, yes.

146 DONHEFFNER: The person who is rowing the canoe across the Willamette is not the only one in danger. You are endangering others around that boat.

159 CHAIR COURTNEY: Rep. Parks, can we hear from you specifically regarding the motor boat part of the amendment?

163 REP. PARKS: The boat has to be equipped with a 10 horse or above motor.

169 CHAIR COURTNEY: Can any type of a boat with a motor reach 5 knots or more?

172 DONHEFFNER: Virtually any motor boat would be capable of 5 knots. And virtually any sail boat would be capable of 5 knots.

177 REP. JOHNSON: The version of the house bill contained a limit to 5 horsepower motors with the recognition that maybe that is easier to prove than 5 knots, but it got changed. It may be hard to prove with a "knot" restriction. Therefore, we think a 10 horsepower motor is indicative of the kind of instrument we want to keep out of drunk people's hands.

193 CHAIR COURTNEY: Thought the "implied consent" language would take all non-mechanized things out.

199 SEN. HILL: The speed is the thing that kills.

204 REP. PARKS: Rep. Johnson and I don't think it should be against the law to be under the influence, not implied consent, in a rubber raft or in a tube or rowboat.

210 REP. CLARK: ORS 820.325 is on the books. The House passed version did not repeal that statute.

231 REP. JOHNSON: There are already laws on the books that deal with unsafe operation of boats. Read from the statutes.

264 SEN. BUNN: What you are saying is we are going to allow drunk driving in boats because we won't allow implied consent to enforce it.

268 REP. PARKS: You are going to put part time policeman out there who don't have the training and you are going to have a harder time convicting them with a breathalyzer. How many people were arrested for driving under the influence in Multnomah County last year on a boat? There are 70,000 boat registrations and the answer is zero.

281 SEN. SHOEMAKER: Just as in driving a motor vehicle, before you can force a person to blow, you have to arrest them for probable cause that they are drunk. It is not a case where you are going to force people to blow into a breathalyzer without them having already provided probable cause to arrest them and the arrest has occurred.

295 SEN. HILL: How many deaths have you had as a result of accidents involving the use of alcohol in boats?

299 DONHEFFNER: Best estimate is somewhere between 50 and 60 percent. In Oregon on an average year, lose 20 plus people. These are fatals. There are numerous injury accidents that go unreported. The estimate is they only receive about 10 percent of all boating accident reports. Nationwide, about 60 percent of all boating fatalities.

334 SEN. HILL: When there is an accident, it is not just the people involved, it involves rescue workers and others.

357 CHAIR COURTNEY: Recessed the meeting.

Submitted by:      Reviewed by:

Diane Bassett      Pat Zwick Assistant      Office Manager