

SENATE COMMITTEE ON
HUMAN RESOURCES

April 1, 1991 Hearing Room A
3:15 p.m. Tapes 55 - 56
MEMBERS PRESENT: Sen. Bill McCoy, Chair
 Sen. Cliff Trow, Vice Chair
 Sen. Bill Kennemer
 Sen. Paul Phillips
MEMBER EXCUSED: Sen. Shirley Gold
VISITING MEMBER: Sen. Grattan Kerans
STAFF PRESENT: Janice J. Fiegenger, Committee Administrator
 Mike Meriwether, Research Assistant
 Debbie Schieno, Committee Assistant
 Andra Woodrum, Page

MEASURES

CONSIDERED: SB 738, Relating to vending machine
sale of tobacco, PH
 SB 739, Relating to the sale of tobacco to minors, PH
 SB 837, Relating to placement of tobacco vending machine, PH

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TAPE 55, SIDE A

003 CHAIR MccOY: Calls the meeting to order at 3:27 p.m.
PUBLIC HEARING ON SENATE BILLS 738, 739 AND 837
Witnesses: Dan McCullough, Seventh Day Adventist Church
Dell Isham, Oregon Dental Hygienist Association
Jim Carlson, Oregon Medical Association
Joyce Owen, American Lung Association of Oregon
Joe Weller, American Lung Association of Oregon
Brenda Niblock, American Lung Association of Oregon
Emily Toffler, Portland, Oregon
John Powell, Northwest Automatic Vending Association
Dan Lind, Northwest Automatic Vending Association
Robert E. Neely, American Lung Association
Jim Whitty, Oregon Retail Council
Mike McCallum, Oregon Restaurant Association
Joe Gilliam, Nat' Fed. of Independent Businesses
Mark Nelson, Southland Corporation
Jack Munro, Association of Oregon Food Industry
Art Keil, Oregon Health Division
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Jeffrey N. Kushner, Department of Human Resources

011 DAN MccULLOUGH, SEVENTH DAY ADVENTIST CHURCH: Testified in support of SB 738, 739 and 837. We must share with the young people of the state the importance of these laws.

>Greater accountability will give young people a better image of how the public and the law makers are helping and will help the young people to understand that this is for a better environment.

091 DELL ISHAM, EXECUTIVE ADMINISTRATOR, OREGON DENTAL HYGIENIST ASSOCIATION: Testified in support of all of the proposed legislation because they restrict access to tobacco by children. This legislation is a very cost effective way of addressing a very important public health issue.
129 SENATOR GRATTAN KERANS, DISTRICT 20: Testified in support of all three

of the proposed bills. At the outset, we have a problem for which we have adopted a solution in ORS 163.575, stating "The sale of all tobacco products to children under 18 years of age is illegal. This is a class A misdemeanor, punishable by a fine of up to \$2,500, or a year in the county jail. We are left with a problem and no solution at all. The solution does not serve the public purpose it was meant to do and rather we must go in another direction. SB 837 makes sure the machines are not near schools.

>The sale of tobacco products, through vending machines is not illegal and represents more than 3% of the tobacco industry's profit in the USA, or more than \$200 million annually in the sale of tobacco products to minors. Although we have laws prohibiting the sale of tobacco to children, we are without the means to enforce our own laws. It is time to create a civil process and a new method of regulation.

>In order to make the law work, we have to have SB 739. We must have a method of licensing those who sell tobacco product, just as we license those who sell alcoholic beverages.

>Each day 3,000 children in the USA, under the age of 18, will begin smoking. We have a social responsibility to these children.

281 SEN. TROW: SB 739 has a subsequent referral to the Judiciary Committee and it does have a fiscal impact. Could we ask the Senate President to remove the referral and sent the bill to the Ways and Means Committee?

290 SEN. KERANS: The Judiciary Committee can send it on to the Ways t on to the Ways and Means Committee, or the Senate President could ask Sen. Cohen to stand back from her stated objective of having all bills with the words "civil penalties" in the title be cleared by the Civil Penalties sub-committee.

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338 JIM CARLSON, OREGON MEDICAL ASSOCIATION: Testified in support of all three of the bills. This is not only a public health issue, but also an economic issue. According to estimates, the State of Oregon is spending approximately \$270 million per year on medical costs in treating smokers. A lot of the cost is incurred by the state through programs such as the Medicaid Program.

>Refers to several newspaper articles. (EXHIBIT A)

414 JOYCE OWEN, AMERICAN LUNG ASSOCIATION OF OREGON: Testified in support of all three bills and reviewed prepared testimony. (EXHIBIT B).

TAPE 56, BIDE A

029 JOE WELLER, AMERICAN LUNG ASSOCIATION OF OREGON: Offered written testimony in support of the bills. (EXHIBIT C)

034 BRENDA NIBLOCK, AMERICAN LUNG ASSOCIATION OF OREGON: Testified in support of the bills and reviewed her prepared testimony. She reviewed several statistics regarding teen smoking nationally and in the State of Oregon. (EXHIBIT D)

075 WELLER: Presented an overhead projector review of the bills, detailing several statistics relating to smoking.

>There is a problem with uncontrolled and unacceptable levels of tobacco sales to children.

>In the State of Oregon during 1990 22.5% of all deaths were related to tobacco use.

>Areas of active enforcement are few. Active enforcement involves a variety of techniques, primarily administrative in nature.

190 EMILY TOFFLER, PORTLAND, OREGON: At age eleven she helped with the cigarette/tobacco research going to a variety of stores and purchasing cigarettes. Cigarettes were easily accessible to children.

238 JOHN POWELL, NORTHWEST AUTOMATIC VENDING ASSOCIATION: They will endorse the concept of SB 837 and offered a proposed amendment in terms of the definition of the property. The stated language "property used by a public elementary or secondary school" should be more definitive in terms of

instruction or locations involving children. This language would eliminate such locations as the repair shops or storage areas.

293 DAN LIND, NORTHWEST AUTOMATIC VENDING ASSOCIATION: Testified in opposition to SB 739. Most cigarette sales are through retail outlets, not vending machines. The majority of machines are in locations where minors are not allowed.

>The volume through vending machines has dropped dramatically.

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>The National Automatic Merchandising Association has a 6 point plan in which most members are involved. When a vending machine is requested, the location is surveyed for access to minors. We solicit the owner's cooperation to prevent minors from purchasing from the machines. Machines will be removed if the sale to minors cannot be prevented.

370 POWELL: Spoke in opposition to SB 739. We are concerned with page 2, section 3, a vending machine would be licensed as a mobile unit, and the license fee would be \$50.00 per year for those with a volume of under \$5,300. The vending machines have less volume than a grocery store and are usually located for the employees, or the hospitality industry.

TAPE 55, SIDE B

022 SEN. TROW: What happens if a supervisory person allows an inappropriate person to use the vending machine? Is there a penalty?

025 POWELL: The violation is a Class A infraction under the county ordinances.

036 ROBERT E. NEELY, AMERICAN LUNG ASSOCIATION: Testified in support of the three bills and outlined his prepared testimony. (EXHIBIT E)

104 JIM WHITTY, DIRECTOR, OREGON RETAIL COUNCIL: Testified that he does not support smoking, but he does oppose SB 739. There is a Class A misdemeanor for selling to a minor. This results in substantial monetary penalties or one year imprisonment.

>SB 739 is a costly approach.

123 MIKE MCCALLUM, OREGON RESTAURANT ASSOCIATION: Testified in opposition to SB 739. The sales we are talking about are incidental sales to the industry, but they are important sales.

>Having a license to sell tobacco will not cut down on illegal sales to minors.

160 CHAIR MCCOY: How would you suggest we keep the children from smoking?

165 MCCALLUM: It starts with education. Restricting availability has not proven to be totally effective with regard to alcohol.

175 JOE GILLIAM, NATIONAL FEDERATION OF INDEPENDENT BUSINESSMEN: Testified in opposition to SB 739. Licensing will not solve the problem. Licensing is going to be a burden on the small business owner. This regulation in the alcohol industry has not helped the problem of minors consuming alcohol.

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212 MARK NELSON, SOUTHLAND CORPORATION: Testified in opposition to SB 739. In the 1989 session this bill, in a similar form, was offered in the House and was not only tied to a tobacco license, it was also tied to a liquor license.

>The issue is enforcement of existing laws and of education. Penalties aimed at the economic livelihood of the retailers is not going to solve the problem.

310 SEN. TROW: Is the problem solved by expecting the company owning the stores to insist that their employees see to it that the laws are enforced?

320 NELSON: We do insist that the laws be enforced, but this does not mean

there are not violations by individuals. We believe the issue is enforcement.

330 SEN. TROW: Enforcement can only work if the people there are conscientiously applying the laws. We cannot put a policeman in every store. This has to be done on a voluntary basis with the people who are selling the cigarettes adhering to the laws.

361 JACK MUNRO, ASSOCIATION OF OREGON FOOD INDUSTRY: Testified in opposition to SB 739. This bill addresses subjects that are already addressed in the statute. The bill does impose a burdensome and complicated regulatory scheme that is not the answer to resolving the problem.

TAPE 56, SIDE B

040 ART REIL, OREGON HEALTH DIVISION: The Health Division supports all legislation that restricts the availability of tobacco to minors. (EXHIBIT F)

>Tobacco use is the chief avoidable cause of death in the state. Most studies have indicated to the Health Division that the two major areas that will reduce cigarette smoking to minors are price and availability of the product.

>The Health Division proposed, in concept, an amendment which reduces the fiscal impact statement, whereby the division would delegate the program to county health departments. This would reduce the number of employees at the Health Division to enforce the law.

118 JEFFREY N. KUSHNER, OREGON DEPARTMENT OF HUMAN RESOURCES: Testified in support of the three bills. They will support any legislation which would prohibit the sale of tobacco products to minors and make it less likely that they will have accessibility to tobacco products. (EXHIBIT G)

>This state has one of the lowest rates of adolescent alcohol use in the country. The Oregon Liquor Control Commission has a very healthy attitude relative to alcohol policy as it regards use by under age populations.

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>There have been reductions in the adult smoking population, but we are not seeking reductions in the adolescent smoking population at a national level.

>Prevention of early involvement in legal drugs would reduce use of marijuana. Prevention of early use of marijuana would reduce involvement in other illicit drugs.

>The Department of Human Resources is committed to reducing tobacco use among the clients that are served throughout the department, as well as with adolescents across the State of Oregon.

220 CHAIR McCOY adjourned the meeting at 5:30 p.m.

Submitted by:	Reviewed by:
Debbie Schieno	Janice J. Fiegenger
Assistant	Committee Administrator

EXHIBIT LOG:

- A - Testimony on SB 738 and 739, Jim Carlson, 3 pages
- B - Testimony on SB 738 and 739, Joyce Owen, 1 page
- C - Testimony on SB 738 and 739, Joseph Weller, 1 page
- D - Testimony on SB 738 and 739, Brenda Niblock, 1 page
- E - Testimony on SB 738 and 739, Robert E. Neeley, 2 pages

- F - Testimony on SB 738 and 739, Art Keil, 2 pages
- G - Testimony on SB 738 and 739, Jeffrey N. Kushner, 4 pages

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