

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.

Measures Heard HB 2882 (PAW) HB 3524 (PAW)

SENATE COMMITTEE ON THE JUDICIARY

June 24, 1991Hearing Room C 1:20 p.m.Tape 242

MEMBERS PRESENT:SEN. JOYCE COHEN, CHAIR SEN. JIM HILL, VICE CHAIR  
SEN. PETER BROCKMAN SEN. JIM BUNN SEN. JEANNETTE HAMBY SEN. BOB  
SHOEMAKER SEN. DICK SPRINGER

STAFF PRESENT: INGRID SWENSON, COMMITTEE COUNSEL BILL TAYLOR,  
COMMITTEE COUNSEL MARK THORBURN, COMMITTEE ASSISTANT

WITNESSES: MARLA RAE, DEPARTMENT OF JUSTICE CHARLES  
WILLIAMSON, OREGON TRAIL LAWYERS ASSOCIATION DALE PENN, OREGON DISTRICT  
ATTORNEYS ASSOCIATION

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TAPE 242, SIDE A

002 CHAIR COHEN: Calls the meeting to order at 1:20 p.m.

HB 3524

003 CHAIR COHEN: We'll take up 3524 first.

005 BILL TAYLOR, COMMITTEE COUNSEL: There are amendments (Exhibits A, B, and C) to this bill. Explains the underlying problem behind the amendments.

016 MARLA RAE, DEPARTMENT OF JUSTICE: Explains the Department's Crime Victims Compensation Program ability to receive one half of the punitive damages. The bill would give the Department notice of those cases. Mr. Williamson has prepared amendments to that bill and we have no problem with them.

025 CHARLES WILLIAMSON, OREGON TRAIL LAWYERS ASSOCIATION: Explains the dash five amendments (Exhibits B and C).

055 SEN. SHOEMAKER: As to priority among creditors, how would that cork with eh punitive damages portion of the award? Gives example to illustrate concern.

061 WILLIAMSON: Unless it goes into bankruptcy, the punitive damages would be on a par with the debt. Punitive are not generally dischargeable in a bankruptcy. Otherwise, it's just like any other debt; there would be a lien and first in time as to the lien would have priority.

066 SEN. SHOEMAKER: So if the debt creditor is frustrated because a judgment creditor was collecting punitive damages, I guess the recourse would be an involuntary bankruptcy.

072 WILLIAMSON: This is entirely outside the statute; this statute applies only if there is an award of punitive damages.

074 SEN. SHOEMAKER: My concern is that this could operate unfairly against debt creditors. It seems that a punitive damage award ought not prevail or be on par with a debt creditor.

077 WILLIAMSON: Whatever it is under existing law, it is under this bill. Cites example.

083 SEN. SHOEMAKER: If a civil plaintiff recovers punitive damages, it can be collected like any other debt.

085 WILLIAMSON: Right.

086 SEN. SHOEMAKER: So this doesn't change that; this just allows the Department of Justice to pursue it.

089 RAE: Do you want us to address the other amendments to this bill?

090 CHAIR COHEN: Yes.

090 RAE: Addresses what occurred in the House Judiciary Committee and the Ways and Means Committee.

117 CHAIR COHEN: Any questions.

- Tell me about the variety between the B4 (Exhibit A) and B5 (Exhibits B and C) amendments.

121 TAYLOR: The B5 supersede the B4.

122 CHAIR COHEN: Then we can tear them up.

124 MOTION: Sen. Springer moves the B5 amendments.

125 CHAIR COHEN: Calls for objections; hearing none, so ordered.

127 MOTION: Sen. Springer moves HB 3524 as amended.

129 VOTE: Motion unanimously passes.

HB 2882

133 CHAIR COHEN: House Bill 2882.

- Invites Dale Penn to testify.

140 DALE PENN, OREGON DISTRICT ATTORNEYS ASSOCIATION: Supports the bill. Explains the idea behind the bill. There's no funding for this, but it is still a good bill; explains why.

163 CHAIR COHEN: Do we have any amendments?

165 INGRID SWENSON, COMMITTEE COUNSEL: No amendments. There is a subsequent referral to Ways and Means.

168 MOTION: Sen. Springer moves the bill and requests that the subsequent referral be removed.

170 SEN. BROCKMAN: Let's lighten their load.

171 CHAIR COHEN: Rephrases Sen. Springer's motion.

177 VOTE: Motion unanimously passes; Sen. Bunn excused.

183 CHAIR COHEN: Recesses the hearing until the call of the Chair. (Hearing is never reconvened.)

Submitted by:

Reviewed by:

Mark Thorburn

Committee Counsel

Ingrid Swenson Committee Assistant

EXHIBIT LOG:

A - Amendments to HB 3524 (dash four) - Charles Williamson - 1  
page B - Amendments to HB 3524 (dash five) - Charles Williamson -  
1 page C- Hand Engrossed Version of HB 3524 - Charles Williamson  
- 1 page