

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.

SENATE COMMITTEE ON
TELECOMMUNICATIONS AND CONSUMER AFFAIRS

May 7, 1991Hearing Room B
1:00 p.m.Tape 54 - 55

MEMBERS PRESENT:Senator Jolin, Chair
 Senator Otto, Vice-Chair
 Senator Kennemer
 Senator Bunn
 Senator Shoemaker

STAFF PRESENT: Cherie Copeland, Committee Administrator
 Apryl Poff, Committee Assistant

MEASURES HEARD: SB 1066 Answering services, WS.

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WORK SESSION
TAPE 54, SIDE A

005 CHAIR JOLIN: Calls the hearing to order at 1:11 p.m.

010 SB 1066 ANSWERING SERVICES, WORK SESSION.
 Witnesses: Jim Stenbridge, Construction Contractor's Board.

012 CHERIE COPELAND: Introduces the SB 1066-2 amendments (EXHIBIT A) which would define telephone answering services as any type of pagers, voice mail etc. Page 2 lists ways that the identification of a customer can be verified. Those types of verification include a social security card, passport, valid Oregon driver's license, articles of incorporation, certified copy of a registered business name or the telephone answering service can make a phone call to the Corporations Division for telephone verification of an registered assumed name. In Section 4 line 5 the civil penalty has been reduced from \$1000 to \$500. Section 5 would have this act not apply to any telephone answering service provided by a telecommunication utility.

036 SENATOR BUNN: Don't we have regulated industries that have

nonregulated activities?

040 CHAIR JOLIN: Yes. We have altered the language to make it very clear on this issue.

047 CHERIE COPELAND: There are certain services and products that aren't regulated because of their nature, but the company would be regulated. On page 2 section 5 it should read that this act doesn't apply to any telephone answering service provided by a telecommunications utility, and that telecommunications utility is defined in statute and it's a regulated industry. The telephone answering service industry is requesting that the section regarding civil penalties be removed. If not removed then have the fine lowered from \$5000 to \$3500.

080 CHAIR JOLIN: My preference would be to lower the civil penalties from \$5000 to \$3500.

085 SENATOR SHOEMAKER: What type of monetary damages does a person suffer? How realistic is this right of action anyway?

095 JIM STEMBRIDGE: This enables a person who is harmed by the customer of the answering service who can't identify that person because the telephone answering service hasn't followed the requirements of the bill to bring action against telephone answering service if they couldn't find the customer of the telephone answering service.

125 SENATOR SHOEMAKER: What type of damages are we talking about?

130 JIM STEMBRIDGE: The telephone answering service could be liable for the amount the customer lost.

141 SENATOR SHOEMAKER: Wouldn't you have to prove, even if you had identified the customer, that you wouldn't have lost the money?

155 JIM STEMBRIDGE: I think that it would be difficult in proving this.

177 CHAIR JOLIN: Should we eliminate the damage provisions and change the \$500 civil penalty back to \$1000?

190 SENATOR BUNN: The bill came to us because of a concern in the building industry. If you end up with a case where you have a \$100,000 dollar fraudulent act in essence we're are saying to the answering service that your responsible for the whole amount. If we want to do this we need to be aware that we are saying that telephone answering services would accept 100% liability if we remove that sentence.

200 CHAIR JOLIN: By putting a set figure in the provisions of Section 3 we are setting a limit. If you take the dollar amount out of there, there is no limit to the liability or damages. We need to decide whether we want to have that kind of option there. And if the answer is yes then what is the dollar

amount.

215 SENATOR BUNN: If we didn't have Section 3 at all, would there be any right of an individual to sue the answering service and argue that they were at fault and therefore there should be compensation arguing to the court that there was a responsibility?

226 SENATOR OTTO: I believe that we should change Section 3 to \$3500.

235 CHAIR JOLIN: If you eliminated Section 3 entirely, would a private cause or right of action be available?

245 SENATOR SHOEMAKER: You would have to create a duty that it has to the caller. Without that you wouldn't have a cause of action.

250 SENATOR KENNEMER: I agree with Senator Otto. Maybe we should even make the civil penalty lower than \$3500.

266 CHAIR JOLIN: I think that if you remove Section 3 you could take any possible action away from the unsuspecting consumer. I'm not aware that these particular people providing this type of service are the big scammers of the country or the state. Does the committee have a thought about retaining Section 3 and reducing the figure of \$5000?

290 SENATOR SHOEMAKER: I would be comfortable with that if we could make one additional change. If we said that the telephone answering services shall be liable for actual damages caused to any person who called a customer at the telephone answering service and was unable to identify the customer.

315 CHAIR JOLIN: What about the \$5000 figure?

317 SENATOR OTTO: Move it down to \$2500.

320 CHERIE COPELAND: On page 2 of the hand-engrossed line 17-25 is a list of ways in which the identity of the customer can be verified and that includes a social security card, passport, and valid Oregon driver's license. An alternate list has been suggested by Marilyn Grannell. The list has been broken down into two parts. The first lists the documents social security card, passport, and valid Oregon driver's license, or in the case of a business or corporation at least one of the following by a state official: A certified copy of an assumed business name, certified copy of articles of incorporation, certified copy of state builder's license, or certified copy of any state license showing the authenticity of the proposed applicant and the name under which they intend to do business. Under sub 3 we would substitute this list that we just discussed.

365 SENATOR BUNN: We are saying that you have to show a social security card, valid Oregon driver's license, and a passport. There is a very low percentage of people who have passports, and there are quite a few people who don't have their social security cards

accessible to them. Other than for tax purposes Oregon doesn't require a social security card or the disclosure of a social security number because that is confidential, but we require both of those. If you're an individual and you have a suspended license or don't have a license then you can't comply with the requirements. We should at least say valid Oregon driver license or valid Oregon ID. I'm not comfortable making people use their social security card for identification purposes other than for tax purposes.

378 CHAIR JOLIN: You would like to add under the provisions of c valid Oregon driver's license or valid Oregon ID?

390 SENATOR BUNN: Yes. My concern is that if you have a valid Oregon driver license or ID that takes care of it. That should be every bit as good as seeing some certificate without a picture that anyone could carry around. I don't see that there is a benefit of a passport for this purpose.

422 CHAIR JOLIN: My only thought to keeping the passport on the list is that it gives a person another option for a possibility for ID.

440 SENATOR BUNN: I'm not sure that you need both pieces of the ID required to be legitimate.

452 SENATOR SHOEMAKER: I agree with Senator Bunn. I think we should go with one of the three proposed pieces of ID, either a passport, valid Oregon driver's license or ID card, or a social security card.

460 CHAIR JOLIN: Are you saying that you only want one ID requirement out of this list?

462 SENATOR BUNN: Yes.

467 CHAIR JOLIN: Are you suggesting that in the first part one piece of ID should be required and also include valid Oregon ID card?

470 SENATOR BUNN: Yes.

473 CHAIR JOLIN: Do all parties concur on deleting social security card from the list?

480 SENATOR OTTO: Yes.

TAPE 55 SIDE A

050 CHAIR JOLIN: Adjourns hearing at 1:45 p.m.

Submitted by: Reviewed by:

Apryl Poff Cherie Copeland

Assistant

Committee Administrator

EXHIBIT LOG:

- A - Hand-engrossed amendments to SB 1066 submitted by staff, 2 pages.
- B - Proposed amendments to SB 1066 submitted by Marilyn Grannell, 2 pages.