

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
PH: SB 271 & 68

SENATE COMMITTEE ON
TRANSPORTATION

February 14, 1991 Hearing Room C
8:00 a.m. Tapes 20-23

MEMBERS PRESENT: Sen. Joan Dukes, Chair
Sen. William McCoy, Vice-Chair
Sen. Peter Brockman
Sen. Scott Duff
Sen. Paul Phillips
Sen. Tricia Smith
Sen. Eugene Timms

STAFF PRESENT: Ruth Larson, Committee Administrator
Shannon Gossack, Committee Assistant

WITNESSES: Mike Meredith, Oregon Trucking Assoc.
Steve Johnston, Highway Division
John Powell, State Farm Insurance
Jack Munko, American Insurance Assoc.
Dell Isham, American Auto Assoc.
Brian Boe, National Assoc. of Independent Insurers
Lana Butterfield, SAFECO & Ore. Professional Insurance
Mary Alice Bjork, Dept. of Insurance & Finance
Don Schellenberg, Oregon Farm Bureau
Claude White, Oregon Farm Bureau
Phil Walker, Oregon Farm Bureau
Thomas Bradd, Highway Division
D'Mark Mick, Agripac
Sig Siegner, Oregon Cherry Growers
Charlie Adams, Clermont Inc.
Seb Kenagy, Norpac
Jerry Butler, Norpac
Rick Mallorie, Mallorie Dairy
Paul Hesse, Hesse & Son Dairy
John Phelps, Citizen
Lt. Glen Rader, Oregon State Police

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TAPE 20, SIDE A

008 CHAIR DUKES: Calls meeting to order at 8:12 a.m.

012 RUTH LARSON, COMMITTEE ADMINISTRATOR: Submits written testimony. (EXHIBIT A)

PUBLIC HEARING SB 271

024 STEVE JOHNSTON, HIGHWAY DIVISION: Submits written testimony. (EXHIBIT B)
-Discusses insurance premiums in regards to splash and spray devices.
-Explains safety factors involved with splash and spray devices.

058 SEN. SMITH: What trucks are splash and spray devices required on?

061 JOHNSTON: Explains which vehicles are required to carry splash and spray devices.
-Discusses problems with eighteen wheelers.

076 SEN. BROCKMAN: Expresses concern about out of state truckers.

079 JOHNSTON: This is a voluntary bill. The insurance premium discount is the incentive.

089 SEN. SMITH: Who decides what is an appropriate reduction in premium?

094 JOHNSTON: The insurance company.
-Discusses possible reductions.

126 JOHN POWELL, STATE FARM INSURANCE, PACIFIC INSURANCE: Mandated rate reductions are very complex. We oppose SB 271.
-Discusses existing law regarding splash and spray devices.
-Explains study done by National Safety Transportation Commission.

240 CHAIR DUKES: What about the language on line 7 of SB 271 regarding insurance reduction.

244 POWELL: Discusses accidents versus physical property damage.

252 SEN. SMITH: Is it possible to have collision coverage without liability?

256 POWELL: Discusses financial responsibility law in Oregon.

267 JACK MONROE, AMERICAN INSURANCE ASSOCIATION: From a technical stand point it is possible.

274 SEN. SMITH: Does your company write insurance policies that only cover collision?

281 MONROE: Explains the coverage that insurance companies offer.

308 SEN. SMITH: What is an appropriate reduction? Who else sets rates for the insurance companies?

314 POWELL: It would be the insurer, in accordance with the statute and how that is interpreted.

340 MONROE: Discusses the history of the problem with splash and spray.
-Explains file and use system in the state of Oregon.

TAPE 21, SIDE A

014 MONROE: Explains collision coverage.

035 SEN. DUFF: You collect no data on splash and spray accidents?

041 MONROE: I'm not sure if we do.

049 SEN. DUFF: Do you collect any data on visibility or passing in regards to accidents?

054 POWELL: Weather conditions would not be a factor when determining a premium.
-Explains rate making process.

067 SEN. DUFF: Could you estimate the extra cost to the state of Oregon because of loss of visibility?

089 POWELL: I doubt anyone could give you that figure.
-Discusses other possibilities in which visibility is effected.

096 SEN. PHILLIPS: This issue is not new; have you ever testified in favor of these types of devices?

095 POWELL: I am not sure that we would support a mandate unless there was evidence for significant reduction.

098 MONROE: I have not testified in opposition to this or any other device relative to automobiles or trucks.
-Discusses possible reasons for SB 271.

127 CHAIR DUKES: The trucking industry did not request this bill.

121 SEN. DUFF: How much will this cost a company?

123 MONROE: I don't think we know. We are not certain what an appropriate discount would be.

156 CHAIR DUKES: Refers to the Federal Register. (EXHIBIT A)
-For the record Lana Butterfield is opposed to SB 271.

179 DELL ISHAM, AUTOMOBILE CLUB OF OREGON: Submits and reviews written testimony. (EXHIBIT C)
-This is a dollar issue with the insurance companies and they don't want anyone mandating them or regulating them. They want the freedom to set rates. This is a philosophical issue.

280 BRIAN BOE, NATIONAL INDEPENDENT INSURERS: There is a legitimate controversy over the effect of splash and spray devices. We are concerned about mandating rate reductions that require the insurance companies to make an arbitrary reduction decision.

292 SEN. SMITH: Do you offer commercial vehicle insurance?

297 BOE: Yes, and some companies specialize in commercial insurance.

300 MIKE MEREDITH, OREGON TRUCKING ASSOCIATION: Submits and reviews written testimony. (EXHIBIT D)

376 SEN. SMITH: Is it easier for truck drivers to see vehicles approaching if they are equipped with the splash and spray devices?

394 MEREDITH: There probably could be some weather conditions where it wouldn't make much difference. If the motorist is having problems seeing then the trucker is too.

410 SEN. DUFF: Any idea of what the insurance cost would be in Oregon in comparison to other states?

412 MEREDITH: That is one thing that is addressed in SB 271. The insurance companies would be able to make those kinds of determinations.
-Discusses triple trailers and the mudflaps required by law.

TAPE 20, SIDE B

015 MARY ALICE BJORK, DEPARTMENT OF INSURANCE AND FINANCE: In this line of insurance there are a few companies who specialize in insuring trucks.
-Discusses physical damage in regards to insurance.
-Discusses data information received from rate filings.
-Explains factors that underwriters look at in regard to individual risks.
-Explains the wording "appropriate discounts", in SB 271.
-Discusses air bags and the type of person that would buy one.

095 CHAIR DUKES: What about the liability and collision issue?

097 BJORK: I think the intent is to have a discount in both areas of coverage. The wording might not work.

100 SEN. SMITH: Do you think it would be appropriate to include the discount on the collision insurance?

115 BJORK: Anything that would reduce either damage to others, or to the trucks would seem to be appropriate. Anything that reduces losses is helpful.

125 SEN. PHILLIPS: Asks about the procedure that the Department of Insurance and Finance follows in regard to discounts. Do you have the power to say the discount is not enough?

137 BJORK: Discusses the Departments procedure.

157 SEN. PHILLIPS: Discusses the File and Use Plan.

PUBLIC HEARING ON SB 68

181 THOMAS BRADD, OREGON DEPT. OF TRANSPORTATION: Submits and reads written testimony. (EXHIBIT E)

237 REPRESENTATIVE JOHN SCHOON: The main concern is the grossly leaking loads that do create hazardous situations. Mrs. Phelps is the requestor of HB 2592,

which is similar to SB 68.

260 CHAIR DUKES: SB 68 is broader in its coverage than HB 2592. SB 68 would take out all exemptions for leaking loads.

265 DON SCHELLENBERG, OREGON FARM BUREAU: We oppose SB 68. We think there is a need for this type of a bill, but not SB 68.

-Refers to ORS 818.300.

-It is economically impossible to be completely leak free.

-Under subsection 4 of ORS 818.230 the Department already has the authority to remove a permit from anyone causing excessive leakage. There is no reason to remove the permits altogether.

375 CHAIR DUKES: Wouldn't the removal of the permit be done after the fact?

381 SCHELLENBERG: The police have the authority to cite someone right now.

387 SEN. SMITH: Discusses the accumulation aspect.

-Why is it not possible to create a trailer that doesn't leak?

003 SCHELLENBERG: I said it was economically unfeasible. Accumulation is a situation that does happen. The Department is aware of that problem in the area where the accident occurred. It could have been sanded before or throughout the hauling process.

431 SEN. SMITH: Should the state spend tax dollars to deal with a problem created by one industry?

TAPE 21, SIDE B

022 SCHELLENBERG: I guess that is a decision that the state needs to make depending on how they view the economy of the state. There are things that the state does for many industries that are particular to that industry.

026 SEN SMITH: I am not aware of the state providing money to alleviate a hazard by someone.

I think our general philosophy is to have the group of carriers take care of the problem, not the Highway Division.

031 SCHELLENBERG: Discusses the economical burden to agriculture.

042 PHIL WALKER, GROWER: Discusses mechanically harvested cherries.
-Describes the bin unit that is used in the preservation of cherries.

069 CHAIR DUKES: Do you get a permit to haul a leaking load?

072 WALKER: No we do not. I've never been notified that I had to do that.

074 SCHELLENBERG: There were citations issued to cherry growers. There is no requirement that Mr. Walker have a permit, but without one he could get cited.

082 SEN. TIMMS: It would be interesting to know how many people we cite with leaking loads.

093 SEN. DUFF: Does the permit list the specific place, time and identify the vehicle?

097 CLAUDE WHITE, WHITE FARMS: Each truck has to have a permit; there are three different routes you can travel. If you need more routes you need another permit.

104 SEN. DUFF: So the state knows the route of the truck and the time frame.

110 WHITE: Explains the White Trucking routes and what they haul.

-This bill will impact us. The dairy haulers and processors are trying to work on this problem

157 SEN. MCCOY: Are there some products that can't be sealed tightly?

178 CHAIR DUKES: It is possible to seal small trucks but the larger trucks are a different story.

183 WHITE: Discusses the process corn silage goes through.

-Explains citation issued because of a leaky valve.

230 SEN. SMITH: Isn't that a faulty valve?

232 WHITE: It was just a drip and it wasn't hazardous, it was water.

247 LT. GLENN RADER, OREGON STATE POLICE: Discusses fatal accident that occurred in Hebo, Oregon.

290 SEN. SMITH: Is there a maximum amount of leaking that can occur if someone has a permit?
I don't see anything in the statute that addresses how much leaking can occur with the permit.

314 RADER: The permit is issued under conditions of the Highway Department.
The Highway Department does not permit excessive leaking which is done under administrative rules.

340 SEN. SMITH: What is the State Police position on SB 68?

343 RADER: This is a policy decision by you. We are hear to answer questions. Anything that would increase traffic safety we would support.

355 SEN. SMITH: Do you believe this bill would accomplish that goal?

361 RADER: If it reduces accidents on the highway, then yes.

365 SEN. DUFF: Asks about the reduction in the patrol staff.

374 SEN. TIMMS: Do weigh stations have the power to check these loads?

382 RADER: They can check the permits and I believe they can take action on that.

403 D'MARK MICK, ENGINEER, AGRIPAC: Describes processing done by Agripac.

TAPE 22, SIDE A

008 D'MARK: Continues describing the squeezing process.

033 SEN. BROCKMAN: Are you squeezing out any nutrients when you do this?

044 D'MARK: We are pumping some nutrients out.
-Discusses the cost of the double squeeze to Agripac.

045 CHAIR DUKES: What other agricultural crops do you have that might be affected?

051 D'MARK: Enforcement on all loads has been increased.

062 SIG SIEGNER, OREGON CHERRY GROWERS: Discusses what cherry growers have done to eliminate leaking.

132 SEN. TIMMS: What is good for the farmer is good for the consumer.

139 JOHN PHELPS, CITIZEN: Testifies in favor of SB 68. You can follow a corn truck by the drip line on the highway. The roads are slick and I think that accident in Hebo could have been prevented. I counted about six cars in the ditch the day of the accident.

180 CHARLIE ADAMS, CLERMONT INCORPORATED: We make juice concentrate out of the small fruits. We are concerned about a minimum amount of dripping off the truck. If this bill goes through and the permits are lost is there going to be tougher restriction on the minimum dripping? We also sell our waste to dairy farmers and there is some dripping off of the truck.

190 BRADD: I don't know if any citation has been issued to a berry truck or a small amount of leakage from a truck.

199 CHAIR DUKES: What about beans and beets?

201 BRADD: I am not sure of anything else that constitutes a hazard.

211 CHAIR DUKES: In the absence of the permit we would cite under existing statute regarding hazards on the road.

214 SEB KENAGY, HAULER: All products have the potential to leak. The corn is the only one I have seen that causes the slick conditions. The only place I have heard about a problem is Highway 22. Are we making a total problem out of one specific area and one specific product. The industry and truckers are making an effort so more legislation is not needed. As a solution I would encourage the industry to continue to work on this. They have made a lot of improvements in just one year.
-Explains sealing of trucks.

329 GARY BUTLER, NORPAC: Explains Norpac plant and what is processed there. Our concern is that the removal of this permit system would endanger distribution of waste products. I suggest to you that if our company loses 140 thousand tons of corn there is an economic problem.
-Discusses other alternatives concerning the hauling of silage.
-Economically corn waste is not worth as much as it would cost to put it in a big plastic bag.

TAPE 23, SIDE A

037 BUTLER: Continues with objection and how weather effects hauling loads.

060 CHAIR DUKES: The majority of the people that testified today don't operate with permits because they aren't leaking.

063 BUTLER: The permit system does offer some degree of protection. If you have a leak and it isn't too bad you're still okay. I think the citations are selective.

080 CHAIR DUKES: We are talking about agricultural products and loads.

091 BUTLER: We have had complaints in the city of Stayton about corn husks blowing off, but never a complaint about leaks on the road. A lot of small farmers would be drastically affected by the passage of SB 68.

124 RICK MALLORIE, MALLORIE DAIRY: We haul all of our own silage. In the last two years we have spent \$110,000 dollars on trailers to try to fix this problem. I haul out of the Brooks cannery and I oppose SB 68. We wouldn't be able to haul a completely leak free load and financially we just wouldn't be able to compete. We have been cited for leaking with the walk in floor trucks. It is obvious that who ever hauls corn silage is going to get picked on. We wouldn't be able to afford to buy the product to make our loads completely leak free.

179 PAUL HESSE, HESSE DAIRY: Reviews section within the leaking load permit concerning leakage restrictions. I feel that the current permit deals with all of the problems discussed here today. A zero tolerance for leakage is obviously impossible to achieve. The permit deals with the safety of leakage and the amount. Somewhere there has to be a judgement made and I think that can be done by an officer.

221 CHAIR DUKES: Do you think that fact the State Police will be losing more people it will cause further deterioration of this problem?

225 HESSE: Most canneries are located on highways well patrolled.
-Discusses the industry and what they have done to try and solve this problem.

260 DELL ISHAM, AUTOMOBILE CLUB OF OREGON: Submits and reviews written testimony. (EXHIBIT D)

322 STEVE JOHNSTON, HIGHWAY DIVISION: There was no intent by the Highway Division to put an undue burden on something that isn't unsafe. We would have no objection of modifying the bill to address corn silage only.

347 CHAIR DUKES: Could you draft some administrative rules so we have something that more

accurately indicates your intent.

348 JOHNSTON: If SB 68 were to pass it would be like any other leaking load. If in fact it was just corn silage that was addressed in the bill it would eliminate some of the objections. The corn silage is a slick substance and does create a hazard.
-Discusses the number of permits issued in regard to the number of trips made.

381 SEN. BROCKMAN: Asks about the hauling season for silage.

CHAIR DUKES: Adjourns hearing at 11:00 a.m.

Submitted by,

Reviewed by,

Shannon Gossack, Assistant

Ruth Larson, Administrator

EXHIBIT LOG:

- A - Committee Staff, Testimony SB 271, 15 pgs.
- B - Steve Johnston, Testimony SB 271, 4 pgs.
- C - Dell Isham, Testimony SB 271, 1 pg.
- D - Mike Meredith, Testimony SB 271, 2 pgs.
- E - Tom Bradd, Testimony SB 68, 2 pgs.
- F - Dell Isham, Testimony SB 68, 1 pg.