

Senate Committee on Transportation
April 25, 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.

SENATE COMMITTEE ON
TRANSPORTATION

April 25, 1991Hearing Room C
8:00 a.m.Tapes 73 - 75

MEMBERS PRESENT:Sen. Joan Dukes, Chair
Sen. Peter Brockman

Sen. Scott Duff
Sen. Paul Phillips
Sen. Tricia Smith
Sen. Eugene Timms

MEMBER EXCUSED: Sen. William McCoy

STAFF PRESENT: Ruth Larson, Committee Administrator
Scott Marshall, Committee Assistant

MEASURES CONSIDERED: SB 859 -Deals with forfeiture of vehicle in conjunction with DUII conviction. SB 953 - Designates Columbia River Maritime Museum to be the State of Oregon's Maritime Museum. SB 775 - Allows for testing procedures for motor vehicle fuels. SB 1096 - Deals with transporting materials via a pipeline. SB 1028 - Prohibits excess numbers of students on school vehicles.

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TAPE 72, SIDE A

008 CHAIR DUKES: Calls hearing to order at 8:25 a.m.

012 RUTH LARSON, COMMITTEE ADMINISTRATOR: Explains bills on agenda.

WORK SESSION ON SB 1096

Witnesses:Ken Armstrong, Port of St. Helens
George Richardson, N.W. Natural Gas

018 CHAIR DUKES: Will the amendments in SB 996 make any difference to SB 109 6?

021 KEN ARMSTRONG, PORT OF ST. HELENS: All parties are very comfortable with this.

035 GEORGE RICHARDSON, NW NATURAL GAS: We support SB 1096 with SB 1096-3 amendments. (EXHIBIT A)

051 MOTION: SENATOR DUFF MOVES SB 1096-3 AMENDMENTS TO SB 1096.

056 VOTE: HEARING NO OBJECTION THE MOTION IS ADOPTED.

MOTION: SENATOR DUFF MOVES SB 1096, AS AMENDED, TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

059 VOTE: THE MOTION CARRIES UNANIMOUSLY. SENATOR DUFF WILL CARRY.

WORK SESSION SB 1028

067 CHAIR DUKES: There was a problem with the language in SB 1028 last time which dealt with the liability issue of bus drivers. Reviews SB 1028-2 amendments. (EXHIBIT B)

-We had a conceptual amendment to SB 1028 last time.

082 MOTION: SENATOR SMITH MOVES TO RECONSIDER SB 1028.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

100 MOTION: SENATOR SMITH MOVES SB 1028-2 AMENDMENTS TO SB 1028.

101 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: SENATOR SMITH MOVES SB 1028, AS AMENDED, TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

104 VOTE: MOTION CARRIES UNANIMOUSLY WITH SENATOR MCCOY EXCUSED. SENATOR DUKES WILL CARRY.

PUBLIC HEARING ON SB 953

Witnesses:Senator Joan Dukes
Jerry Ostermiller, Columbia River Maritime Museum
Garry Breckon, Columbia River Bicentennial Commission

121 SENATOR JOAN DUKES: Explains intent of SB 953.

184 SEN. BROCKMAN: Asks about the model out in the hall.

189 CHAIR DUKES: That isn't from a museum.

192 JERRY OSTERMILLER, COLUMBIA RIVER MARITIME MUSEUM: Explains what the museum consists of in regard to exhibits and the history of the Maritime Museum.

223 SEN. SMITH: What is the role of the Oregon Department of Transportation?

227 CHAIR DUKES: They have never been involved so I don't know.

230 GERRY BRECKON, COLUMBIA RIVER BICENTENNIAL COMMISSION: Discusses the museum's preservation of exhibits and their excellent programs.
-Explains how the designation will help the Bicentennial Commission in securing federal funding.

266 SEN. BROCKMAN: Regarding wording in the bill, is there a possible association to Oregon State University?

275 SEN. DUKES: There are official things for the state, which is what we are talking about.

281 SEN. BROCKMAN: So this is not associated with the University?

287 OSTERMILLER: That is correct. Our name will remain the same.

WORK SESSION ON 953

319 MOTION: SENATOR PHILLIPS MOVES SB 983 TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

323 VOTE: IN A ROLL CALL THE MOTION CARRIES WITH SENATORS TIMMS AND MCCOY EXCUSED. SENATOR DUKES WILL CARRY.

WORK SESSION ON SB 775

323 LARSON: Explains past hearing on SB 775. Reviews SB 775-1 amendments. (EXHIBIT C)
-Submits SB 775-2 amendments. (EXHIBIT D)
-Submits SB 775 conceptual amendments from Oregon Gasoline Dealers. (EXHIBIT E)

393 KEN SIMILA, DEPARTMENT OF AGRICULTURE: Reviews SB 775-1 amendments. (Exhibit C)

404 CHAIR DUKES: Is it a civil penalty not to exceed \$1,500.00?

407 SIMILA: Explains the overburdened court system in relation to enforcement.
-Submits and reviews written testimony which clarifies the intent of SB 775 -1 amendments.
(EXHIBIT F)

TAPE 73, SIDE A

010 SIMILA: Continues reviewing Exhibit F.

064 SEN. PHILLIPS: What about the other amendments?

075 SIMILA: We have no problem with the SB 775-1 amendments.

077 SEN. DUFF: What about other alternate fuels? Should we be concerned about those?

081 SIMILA: That should be considered down the road. This bill does not cover other fuels.

094 SEN. DUFF: Could you track those alternate fuels and report to us to see if we will need to do that in the future?

110 SIMILA: Yes we could do that.

111 SEN. SMITH: I am concerned about the specific language that names natural gases as "other than a fuel". Would that include compressed natural gas? We have several bills dealing with compressed natural gas and it seems to be the alternative fuel in Oregon.

122 CHAIR DUKES: This portion of the statute deals with the monitoring and the testing only.

125 SIMILA: We want to make sure that alternative fuels are quality fuels as well.

-Discusses ORS 646 in regard to the alternative gas issue.

144 CHAIR DUKES: Does the Department of Agriculture have a method of testing natural gas at this time and would it be expensive?

149 SIMILA: No we have no test at this time and it would be very expensive.

156 CHAIR DUKES: Would the language in this bill that deletes natural gas as an alternate fuel have any impact on other sections of statute that deal with natural gases?

163 SIMILA: This isn't a new exclusion.

171 CHAIR DUKES: At some point the issue of the fuel tax will need to be addressed.

174 SEN. SMITH: Does section 1, subsection 6 of SB 775 have an affect on compressed natural gas out in the real world?

179 SIMILA: No.

181 SEN. SMITH: Has your department discussed the issue of alternative fuels?

188 SIMILA: Yes.

-Discusses alternate fuels currently in Oregon.

202 SEN. SMITH: Compressed natural gas seems to be the fuel of choice at the moment.

214 SIMILA: Discusses the testing in regard to alternate fuels.

239 AL ELKINS, OREGON GASOLINE DEALERS ASSOCIATION: Reviews conceptual amendments to SB 775. (EXHIBIT E)

-We still support this bill.

262 DAVE SHANNON, ATTORNEY, OREGON GASOLINES DEALERS ASSOCIATION: Expresses concern about the identifying content and who is involved in that decision.

-Expresses concern about the dealer being liable for the gas he is

delivered.

-Discusses the issue of the wholesale dealer in regard to misrepresentation.

302 SEN. SMITH: What is the problem with existing language?

310 SHANNON: Misrepresentation issue is a concern.

314 SEN. SMITH: If we adopt all amendments and add the word "intentionally", would you have a problem?

321 SHANNON: Discusses the question of innocent misrepresentation.
-Discusses the unlawful trade practice act.

331 CHAIR DUKES: This bill goes to Judiciary. You could make your case in that committee.

346 ELKINS: Asks about payment and penalties.

367 SEN. BROCKMAN: Asks about language on page 1 of SB 775 concerning the retail dealer in relation to liability.

TAPE 73, SIDE B

002 TOM GALLAGHER, BALL, JANIK & NOVACK: Clarifies SB 775-2. We were concerned about transmix and kerosene and we agree that they should be deleted.
-We like the first half of the SB 775-2 amendments.

014 SEN. SMITH: What do you agree with?

020 GALLAGHER: My suggestion was to correct the part dealing with transmix. Lines 2-14 of SB 775 were then added, but it needs to be limited. We are testing for things that aren't necessary.
-Expresses concern about the distillation index.
-Suggests deleting "but not limited" on line 4 of SB 775 and drop the "distillation index" language.

037 SEN. PHILLIPS: Why should distillation index be out?

044 SIMILA: Explains distillation index testing procedures.

074 SEN. PHILLIPS: Is sulfur a contaminate even though it isn't listed in the bill?

082 SIMILA: Sulfur is in many crudes so it wouldn't be a contaminate.

099 MOTION: SENATOR BROCKMAN MOVES SB 775-1 AMENDMENTS TO SB 775.

VOTE: HEARING NO OBJECTION THE MOTION IS ADOPTED.

101 SEN. BROCKMAN: What would happen if the SB 775-2 amendments as printed by deleting lines 1-5 do?

108 GALLAGHER: Clarifies SB 775-2 amendments.

-Discusses the authority to set rules that allows for testing.
-Discusses SB 775-1 amendments, section 7 on line 15 & 16 regarding testing.

154 SIMILA: I think SB 775-2 amendments need need to be in there because that is the prohibiting act section.

169 SEN. SMITH: Asks SB 775-2 language regarding significant characteristic.

178 SIMILA: That is covered in SB 775-1 amendments. The idea of the listing was to give a clear listing of what was felt to be a significant characteristic.

195 CHAIR DUKES: If we were to adopt general language where would it go?

197 SIMILA: Section 3 of SB 775 needs to say something about what is unlawful.

203 GALLAGHER: On line 1, page 2 of SB 775 insert language to refer it back to section 7 of SB 775 . That would set up the penalty which is what that section does.

213 SIMILA: We would be comfortable with that.

222 GALLAGHER: On line 1 of SB 775 after the word "which" insert "violates the standards set in section 7 of SB 775."

228 SHANNON: I'm nervous that you're putting in something that is an absolute. Rules are changing all the time. There must be some way to comply.

246 GALLAGHER: That is the purpose of rule making.

252 SHANNON: Would this be included with the other amendment about the wholesaler or the refiners being the party responsible?

275 SEN. SMITH: Aren't those the SB 775-3 amendments?

276 SHANNON: It says "retail dealer".

282 GALLAGHER: The product is tested repeatedly at the terminal and there is also random testing. There are many places to switch, add or alter the gasoline.

287 SEN. SMITH: Would the wholesale dealers have a problem with certifying that the product they are selling meets the qualifications outlined in SB 775-2 conceptual amendments at the time they sell it?

299 GALLAGHER: The problem is with the independent gas station dealer and the independent wholesale dealer who buy gas from a major station. The classic pea game.

321 SEN. BROCKMAN: What did you agree on?

337 CHAIR DUKES: On line 1 after the word "which", insert language similar

to "violates the rules
and standards set in section 7". I assume we would need to keep line 1 of
SB 775-2 amendments.

365 MOTION: SENATOR BROCKMAN MOVES TO AMEND LINE 1, ON PAGE 2, OF SB
775 AFTER THE WORD "WHICH" INSERT LANGUAGE "VIOLATES THE RULES OR
STANDARDS SET IN SECTION 7", AND DELETE THE REST OF THE LINE.

377 VOTE: HEARING NO OBJECTION THE MOTION IS ADOPTED.

378 MOTION: SENATOR BROCKMAN MOVES TO AMEND SB 775 BY DELETING LINES
2-5 ON PAGE 2.

VOTE: HEARING NO OBJECTION THE MOTION IS ADOPTED.

386 MOTION: SENATOR BROCKMAN MOVES SB 775, AS AMENDED, TO THE
JUDICIARY COMMITTEE WITH A "DO PASS" RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES WITH SENATOR MCCOY
EXCUSED.

PUBLIC HEARING ON SB 859

Witnesses: Senator Jim Bunn
Karen Pearson, Staff, Sen. Bunn
Bill Kurts, Marion County Sheriff's Dept.
Greg Sparks, Marion County Sheriff's Dept.
David Fidanque, ACLU of Oregon

394 SENATOR JIM BUNN: Explains intent of SB 859. (EXHIBIT G & H)

TAPE 73, SIDE B

014 BUNN: Continues with intent of SB 859.
-Suggests eliminating all of section 2 which deals with the impoundment
issue.

075 SEN. SMITH: What about the judicial lag problem between the arrest and
the conviction?

080 SEN. BUNN: Discusses due process.

095 CHAIR DUKES: How would you prevent someone from selling their vehicle
before the
forfeiture takes place?

099 SEN. PHILLIPS: Expresses concern about making an error in judgement.
-This one error could hang over them for the rest of their life.
-Is there a limitation on this?

106 SEN. BUNN: I wouldn't object to changing the conviction on the first
offense.
-Suggests adopting SB 859-3 amendments.

123 CHAIR DUKES: The sticker will involve DMV and also the transfer of
title.

128 SEN. BUNN: My assistant will go through background on the Portland
program.

134 KAREN PEARSON, STAFF, SENATOR BUNN: Explains Portland's forfeiture program.

190 ROGER CONNELLY, YAMHILL CO. SHERIFF'S OFFICE: Explains his personal experience with the issue of drunk drivers.

241 SEN. SMITH: Expresses concern about the cost to agencies.

250 CONNELLY: I agree with you.

256 SEN. DUFF: What would you do with the car if you couldn't sell it?

262 CONNELLY: Discusses the abandoned vehicle program.

271 CHAIR DUKES: What is the holding period time frame?

273 CONNELLY: Once the appraisal is done the person has 15 days.

288 CHAIR DUKES: You're talking about the vehicles that are worth less than \$750.00.

292 SEN. DUFF: Couldn't we use that procedure to save your department some money?

297 CONNELLY: Yes.

313 SEN. DUFF: Discusses existing law for abandoned vehicles.

318 SEN. PHILLIPS: I would like to talk to the tow truck people.

326 CONNELLY: They are concerned about getting their money back out of the abandoned vehicles.

-Discusses how the police department rotates their towing list.

352 SEN. DUFF: Asks that an amendment be drafted so action can be taken on the bill.

-Discussion on section 2 of SB 859 which deals with the breath test.

365 SEN. SMITH: Discusses punitive action in regard to conviction.

371 CHAIR DUKES: There is a need for time regarding due process.

375 CONNELLY: Discusses concerns about section 2 which deals with probable cause and evidence.

TAPE 74, SIDE A

005 BILL KURTS, MARION COUNTY SHERIFF'S OFFICE: Explains personal experience with

law enforcement. I have arrested the same person three times in one night.

-Submits pictures and rap sheet on DUUI incidents. (EXHIBIT I)

061 GREG SPARKS, MARION COUNTY SHERIFF'S OFFICE: Explains personal experience with DUUI drivers.

-Discusses repeat offenders.

091 CHAIR DUKES: Asks about hardship driving.

101 SEN. SMITH: Do judges allow driving privileges on 2nd convictions?

104 SPARKS: They do but it is very restrictive.

119 DAVID FIDANQUE, ACLU OF OREGON: We oppose this bill.
-Legal issues around forfeiture are very complex.
-There are problems this bill regarding probable cause.
-Discusses HB 3304.

255 CHAIR DUKES: Adjourns hearing at 10:35 a.m.

Submitted by, Reviewed by,

Scott Marshall Ruth Larson
Assistant Administrator

EXHIBIT LOG:

- A - Staff, SB 1096-3 amendments, 1 pg.
- B - Staff, SB 1028-2 amendments, 1 pg.
- C - Staff, SB 775-1 amendments, 5 pgs.
- D - Staff, SB 775-2 amendments, 1 pg.
- E - Al Elkins, SB 775, 2 pgs.
- F - Ken Simila, SB 775, 2 pgs.
- G - Senator Bunn, SB 859, 12 pgs.
- H - Senator Bunn, SB 859, 3 pgs.
- I - Bill Kurts, SB 859, 3 pgs.