

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

May 28, 1991Hearing Room C
8:00 a.m.Tapes 94 - 95

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

MEMBER EXCUSED:

VISITING MEMBER:

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

INFORMATIONAL HEARING: Don Forbes, State Highway Engineer

MEASURES CONSIDERED: HB 2315A - Requires operators of off-road motorcycles on public lands to either have a driver's license, or to be accompanied by a person with a drivers license who is at least 18 years of age. HB 2056 - Deletes provision that makes person previously committed to state institution for mentally ill automatically ineligible for driving privileges. HB 2312 - Authorizes Motor Vehicles Division to petition court to enjoin person from acting as vehicle dealer in violation of Oregon Vehicle Code.

WITNESSES:

Don Forbes, State Highway Division
Wanda Wahus, Oregon Independent Auto Dealers Association
Ron Terry, " " " "
Dennis Koho, Motor Vehicles Division
Don Miner, Oregon Manufacturing Housing Association
Timothy Wood, Oregon Department of Justice

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TAPE 94, SIDE A

CHAIR DUKES: Calls the meeting to order at 8:

RUTH LARSON: Reviews the items on today's agenda.

INFORMATIONAL HEARING

DON FORBES, STATE HIGHWAY DIVISION: The chronology of events that lead to the Secretary of State's audit is as follows: Two years ago a senior manager, through an employee survey, related that there was some problems in a shop area. The Highway Division initiated the investigation. In the Fall of 1989 we called in the State Police. They came back in the Spring with concern over the bookkeeping department. Due to the urgency we went with an outside audit firm. The books were seized, and after the first six weeks the rest of the audit was turned over to the Secretary of State. We have since terminated 10 and disciplined 6 employees. There is some new information. Our intent is to run the most ethical organization possible.

SEN. MCCOY: Are you permitted at anytime to get an outside audit?

FORBES: Yes. The Secretary of State is charged with the final audit.

SEN. MCCOY: What was the extent of the goods that were misplaced?

FORBES: I'm not sure. One individual's take amounted to over \$10,000. Most of the 10 terminated employees are still awaiting trial, so they are still part of a criminal process. It would be in the 10's of thousands.

CHAIR DUKES: Has the Secretary of State's office finished the audit?

FORBES: There will be a final audit report on the criminal investigation.

SEN. TIMMS: Are the audits not effective in finding these type of problems?

FORBES: The problems are difficult to find under a normal audit.

SEN. TIMMS: Do you hire any internal investigators?

FORBES: Three years ago we had an investigator on staff. We sent him to another agency. If there is a problem, we start with our own personnel, and then call in the State Police if the problem's existence has been verified. We have internal auditors as a self-check system.

SEN. TIMMS: Employee theft is a big problem.

FORBES: It requires constant vigilance.

SEN. TIMMS: How long since the last time this happened?

FORBES: I dismiss someone on petty theft 2-3 times a year.

SEN. TIMMS: Was the outside audit the most effective part of this investigation?

FORBES: It was a quick look, but it was not the most effective. We have been under investigation often under our own choosing.

SEN. BROCKMAN: Was there cooperation in this investigation with the Secretary of State?

FORBES: This is the first communication with them.

LARSON: At first, when the Department requested a private audit, the Secretary of State's office informed them that an agency could not have an outside audit.

FORBES: In the Fall of '89, we called in the State Police because it seemed as if the problems extended into the shop areas. This was a criminal area.

CHAIR DUKES: How did the Secretary of State's office get involved?

FORBES: They were involved after the books were seized.

SEN. SMITH: Are all of the problems set out in the three speed memos centered in the offices where the theft problems existed?

FORBES: Most of what appears in the memos deal with the store room operation.

SEN. SMITH: The lack of management is the real concern. An employee can't steal if a manager is diligent. How do you plan to deal with this?

FORBES: The senior manager in that area has been replaced. We have reduced the number of managers. I have stressed the importance of adherence to procedures. We have provided additional education.

SEN. SMITH: The relationships that developed between contractors and employees is of concern. What have you done to educate your employees that this is not proper activity?

FORBES: We are not sure the facts are accurate as reported in that document. I want to confirm the facts first. The process for bidding is removed from a field manager.

SEN. SMITH: What have you found about the fishing trips and other gifts?

FORBES: These trips occurred between 1985 and '86. There was no impropriety found, so all charges were dropped.

SEN. SMITH: What is your current policy concerning acceptance of gifts?

FORBES: We follow the Ethic Commission's guidelines that mandate a person cannot accept more than \$100 annually from any one source. Managers may only go to outing sponsored by an association, not by a single contractor.

TAPE 95, SIDE A

SEN. SMITH: If you are invited to go someplace by a contractor, you are not

kept from doing
that?

FORBES: With two caveats - our people are expected to conform to the Ethics Commission guidelines and, if there is a hint of impropriety, they ought not do it. A fishing trip will have a variety of people gathering. We decide whether it is worth our time to be there. There are times that an informal setting is advantageous. The taxpayers should not pay for this, although there can be an overall benefit to Oregon as a result of this occasion.

SEN. SMITH: I think what you are doing is inappropriate.

FORBES: We have tried to stress the appearance of impropriety. I'm not aware of any that have taken place since I have been here.

SEN. MCCOY: How much goods do the field managers have the authority to buy in the local districts?

FORBES: The guidelines set up \$2500 as the limit. We have limited our's to \$1000.

SEN. MCCOY: What do you do to take care of those who exceed the guidelines?

FORBES: In some instances managers were not getting accurate quotes. New procedures implemented in the last year have corrected this problem. Our internal auditors sample a tenth of those procedures to check for accuracy.

119 SEN. DUFF: Please comment on the quality management that you are working on.

SEN. TIMMS: I think that it shows good management that you have caught some people. Need to deter them - it costs the state a lot of money.

CHAIR DUKES: They handled the situation professionally.

FORBES: Our people must be held to higher standards. In this current biennium we have reduced the staff in the Highway Division by about 7%. We have consolidated several sections. We have been able to switch 4% of our budget to direct service from indirect service. This \$20 million a year in our organization. We have spent a lot of time on team building training. It teaches people how to disagree and make gains. We have coupled that with a efficiency measurement system that measure results. Overall inventory was at 69%, far better than the 70s. We had the lowest injury rate than in our history.

SEN. SMITH: Will you request a follow up on this audit at a later date?

FORBES: We would be happy to. In the last two years we have fundamentally changed our planning process, where we build from the bottom up.

SEN. MCCOY: Where are the major projects in the Portland area?

FORBES: I will provide the 6-year plan.

SEN. SMITH: I look forward to seeing the plans for alternative transportation modes.

FORBES: We know that the highway system is not capable of carrying the transport demand of the future. We have plans to better integrate the transport system. For long range planning, I would look at the generic transportation needs. There will always be a freight need, a urban mobility need and a rural access need.

SEN. SMITH: How will you address the funding issue?

FORBES: It has to follow the same theme. Next session we will request a transportation fund.

PUBLIC HEARING ON HB 2312

LARSON: Reviews the status of HB 2312. Submits the -9 amendments. (EXHIBIT A)

SEN. MCCOY: What happens to a car dealer that has other people selling cars for him on their property?

WANDA WAHUS, OREGON INDEPENDENT AUTO DEALERS ASSOCIATION: There are licensed dealers who have wholesalers to go purchase cars for his lot. They are not to sell those cars from their own homes. Submits and reviews testimony. (EXHIBIT B)

TAPE 94, SIDE B

WAHUS: Continues through testimony and runs video display.

102 RON TERRY, OREGON INDEPENDENT AUTO DEALERS ASSOCIATION: Submits and reviews testimony. (EXHIBIT C)

145 SEN. SMITH: What is SB 101?

LARSON: It changes all the sections of law that have civil procedures to the new system.

DENNIS KOHO, MOTOR VEHICLES DIVISION: Submits and reviews testimony. (EXHIBIT D)

-We have 6 investigators that look into public complaints and perform routine audits of dealerships. With this bill, they would be able to focus more on the unlicensed dealers. They would determine who is selling the cars, and see if their operation meets the definition of a dealership.

CHAIR DUKES: Will the increase in fees for civil penalties cover the costs?

KOHO: We don't plan to spend other funds. If the costs higher than expected, then we will scale back our operation.

CHAIR DUKES: Will anyone selling more than 5 cars a year be classified as a dealer?

KOHO: The burden of proof would shift to them. A failed business that sold of a fleet of vehicles would not be restricted by this law.

CHAIR DUKES: How about those who fix up and sell cars as a hobby?

KOHO: You would have to sell over 5 cars to be required to get a dealer's license.

SEN. SMITH: For what other violations do you assess civil monetary penalties?

KOHO: None. I have no plans to pursue adopting any in the next session either.

SEN. SMITH: Do you think that DMV should be allowed to assess civil monetary penalties at this level of violation?

KOHO: It is a vital problem that must be enforced.

SEN. SMITH: What is the Oregon Dealer Advisory Committee?

KOHO: It is a statutorily designated committee that has representatives of the industries that sell vehicles. They advise us on appropriate rules and sanctioning actions.

SEN. SMITH: Isn't that an excessively close relationship between the regulator and the regulated?

KOHO: It is a worthwhile relationship.

SEN. SMITH: Will you assess penalties according to rules or by individual cases?

KOHO: Both. We plan on having rules that set out a matrix. We also recognize the difference in the severity of the violation. I will be making the decisions.

370 DON MINER, OREGON MANUFACTURED HOUSING ASSOCIATION: Submits and reviews testimony. (EXHIBIT E)

SEN. SMITH: Do manufactures sell to unlicensed dealers?

MINER: When they begin the business relationship the dealer is licensed, but then it lapses and the manufacturer doesn't find out. Section 7 of the B-engrossed bill provides that when an unlicensed dealer is discovered, a notice will be placed on the home that informs the public that the dealer may not be licensed.

CHAIR DUKES: Is it illegal to sell manufactured housing without a license?

MINER: Yes. The notice will bring the process to a conclusion quicker. We would like it to happen immediately, but the courts take some time.

TAPE 95, SIDE B

MINER: The criminal process doesn't work. We ask that the subsequent referrals be rescinded.

TIMOTHY WOOD, OREGON DEPARTMENT OF JUSTICE: We found numerous cases in Portland. This bill deals with the problem by taking it out of the criminal proceeding. If a person owns a car, he can sell as many as he likes. We have tried to change the statute so that if the car was titled in your name and you were using for your own personal purpose,

then you need not
be licensed. The primary problem is not those selling 5, but those selling
20 or more.

SEN. DUFF: What if, in the course of business, you wanted to sell off your
vehicles?

WOOD: Section 8, B-engrossed version, has an exception for those
situations.

WORK SESSION ON HB 2312

MOTION: SENATOR TIMMS MOVES THE -9 AMENDMENTS DATED 5/21/91 TO HB
231 2.

VOTE: HEARING NO OBJECTION, CHAIR DUKES SO MOVES.

MOTION: SENATOR TIMMS MOVES HB 2312 AS AMENDED TO THE FLOOR WITH
A REQUEST FOR RESCISSION OF THE REFERRALS TO JUDICIARY AND WAYS
AND MEANS.

VOTE: IN A ROLL CALL VOTE, THE MOTION CARRIES, WITH ALL MEMBERS
PRESENT VOTING AYE.

CHAIR DUKES: Adjourns the meeting at 9:54.

Submitted by,

Reviewed by,

Scott Marshall
Committee Assistant

Ruth Larson
Committee Administrator

EXHIBIT LOG

A - staff, 8 pages.
B - Wanda Wahus, 2 pages.
C - Ron Terry, 10 pages.
D - Dennis Koho, 2 pages.
E - Don Miner, 2 pages.