

updated - 6/28/11

**HOUSE OF REPRESENTATIVES**

**THIRD READING ALERT**

**PROJECTED THIRD READINGS FOR WEDNESDAY, JUNE 29, 2011**

**HOUSE CONVENES AT 1:00 P.M.**



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BILL# COMM RECOMMENDATION Filed CARRIER

PROPOSITIONS AND MOTIONS:

(Possible Reconsideration of Motion to Concur and Repass)

**HB 2244 B-Eng GGCP failed 29-30 06/13/11 Hunt**

Amends definition of “public record” in ORS 192.005 to include information that meets the following criteria: prepared, owned, used or retained by a state agency or political subdivision; relates to an activity, transaction or function of a state agency or political subdivision; and is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the state agency or political subdivision. Clarifies that “public record” does not include records of the Judicial Department, its officers or subdivisions, or spoken communication that is not recorded. **Requires state agencies to have a written policy that sets forth the agency’s use, retention and ownership of public records and to submit the written policy to the State Archivist for approval before the policy takes effect. Allows each agency to come up with their own policies.** Requires state agencies to maintain a public record without regard to the technology or medium used to create or communicate the record. Exempts from disclosure records of domestic violence service or resource center that concern individuals affected by domestic or sexual violence who visit center for referrals, resource information or related services, or individuals’ family members. Declares emergency, effective on passage Senate amendments replace the A-engrossed measure. (Senate vote: 27-0)

Please note: Has minimal fiscal impact, no statement issued.

(Possible Consideration of Senate Amendments)

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**HB 2726 B-Eng HC 06/23/11 Greenlick/Thompson**

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Note:

This is a bad bill as it prohibitively restricts business so that no business can be transacted. Puts limits on number of people inside the business, size of the building, and other provisions. How can you possibly run a profitable business when you can only have 4 customers sampling product at a time. You go to the store with 2 friends and there are already 2 people in the business so you have to wait outside till they are done!!! What lunacy.

Republican House members Berger, Conger, Jenson, Parrish, Sprenger, Thompson, and Whisnant along with Republican senators Atkinson, Ferrioli, George, Girod, Morse, Nelson, Olsen, Starr, Telfer, and Winters all voted for this bill. Some of these people typically vote more business friendly than this, maybe they should ALL be asked what they were thinking.

This bill points out a major distinction between the thinking of a conservative and a progressive/ Liberal. If a progressive/ liberal/democrat/ doesn't like something they must outlaw it so everyone else cannot make a free choice themselves. When a conservative, doesn't smoke, they don't try to outlaw smoking for others, they just don't go into smoke shops.

Senate amendments allow certain establishments to remain in business if they were operating before a certain time frame and meet other requirements. This possibly could be why some senators voted for this bill, but I do not believe this amendment is in the house version of this bill.

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Requires Oregon Health Authority (OHA) to adopt rules establishing certification system for smoke shops. Requires recertification every five years instead of annually. Modifies definition of smoke shop for purpose of Oregon Indoor Clean Air Act by limiting seating to four persons, prohibiting food and beverage, allowing smoking for sampling only, and granting OHA unannounced inspection authority. Requires OHA to certify smoke shop businesses that, as of December 31, 2008 were either standalone or had ventilation system that exhaust smoke. Allows smoke shops, that met specified criteria as of December 31, 2008, to continue to be certified and allows smoke shop in attached structure to continue to be certified in new location if new location meets specified size requirements. Creates "grandfather clause" to allow existing smoke shops to continue operating, and to include those with applications pending before effective date of Act, whose certification process will be completed by December 31, 2012. Allows smoke shop to change owners and to move to new location not larger than 3,500 square feet. Specifies that new location larger than 2,500 square feet may not be more than 10 percent larger than previous location. Specifies that cigarettes may not be smoked unless 75 percent of revenues are from cigarettes. Increases violations from \$2,000 to \$4,000 per month. Declares emergency, effective on passage. Senate amendments add requirement that OHA certify smoke shop business that, as of December 31, 2008, were either standalone businesses or had ventilation systems that exhaust smoke and met specified criteria. Allows smoke shops, that met specified criteria as of December 31, 2008, to continue to be certified and allows smoke shop in attached structure to continue to be certified in new location if new location meets specified size requirements. Changes application filing date from December 31, 2010 to effective date of Act; changes certification deadline from July 1, 2011 to

December 31, 2012. (Senate vote: Ayes, 18; Nays, 11--Beyer, Bonamici, Burdick, Dingfelder, Johnson, Kruse, Monnes Anderson, Rosenbaum, Shields, Thomsen, Whitsett)

Please note: Has Fiscal Impact Statement

Please note: Has minimal fiscal impact, no statement issued.

(Possible Consideration of Senate Amendments – requires rule suspension)

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SENATE BILLS:

(Carried over from Tuesday, June 28, 2011 Calendar)

**SB 412 C-Eng RULES dpa PE 06/27/11 Roblan**

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Note:

Passed senate with only 4 republicans supporting bill and one democrat opposed to bill. The actual bill is very long and detailed. This is a bill for a police agency expert to review as I have heard good and bad things about bill from legislators. Ultimately bill allows tribal police to make arrests off of reservation land under certain circumstances. In State v. Kurtz, S058346 (Or. 3-25-2011), 233 Or. App. 573 (2010), a defendant was found guilty of eluding and resisting arrest by a tribal law enforcement officer at the trial court level, but the convictions were overturned by the Oregon Court of Appeals. The Court of Appeals strictly applied both the statutory definitions of police and peace officer, which require that the officer’s employing entity be a unit of Oregon government. Tribes, of course, are separate sovereigns and not explicitly included in either definition. Senate Bill 412-B took its cue from the Court of Appeals’ decision, to address disparities in the scope of authority and the treatment of law enforcement officers beyond the two crimes that were the subject of the Kurtz opinion (eluding and resisting). While the measure was pending in the Legislature, the Oregon Supreme Court reversed the Court of Appeals, to treat similarly those persons entrusted by governments to serve in the same public safety capacity, but only for purposes of the two subject crimes (court decisions are usually limited to their distinct facts and specific issues). The Supreme Court’s decision in Kurtz and Senate Bill 412-B are consistent with each other, but the measure goes further than Kurtz to address other potential areas of litigation, the most significant being the potential for tort liability.

Provides authorized tribal police officers with certain powers and protections provided to Oregon law enforcement officers if certain conditions are met. Grants authority to persons certified by Department of Public Safety Standards and Training (DPSST), whose employing tribal governments comply with insurance requirements, adopt policies regarding discovery in criminal cases in conformity with state law and neighboring jurisdictions, and codify the following in tribal law: waiver of sovereign immunity from

tort liability; provisions governing records retention, public access to records, and preservation of biological evidence; and a deadly force plan. Creates process for nontribal law enforcement to apply to tribal government for authority to enforce state and tribal law on Indian country and requires report to legislature on number of incidents of potential exercise of such authority, if not granted. Creates transitional approach to grant of authority to tribal officers, limiting scope during first two years to three specific situations outside Indian country (hot pursuit, commission of crime in officer's presence, and upon request or approval of law enforcement agency with jurisdiction), and unrestricted in Indian country. Sunsets these provisions July 1, 2013. Provides full scope of authority the following two years, sunseting July 1, 2015, then reverting to existing law. Defines Indian country. Prohibits receipt of public funds by tribal governments for law enforcement activities. Declares emergency, effective on passage. (Committee Vote: 7 - 0 - 1)

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SENATE BILLS:

(Pending action by the RULES Committee with Rule Suspension)

**SB 993 RULES** dp 06/29/11 tba

Excludes woody biomass combusted as fuel from definition of "solid waste." Excludes wood residue combusted as fuel from definitions that apply to solid waste regulation.

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Note:

**BACKGROUND:** Oregon law establishes a hierarchy for the management of solid waste. The first objective is to prevent the generation of the waste. If that is not possible, reuse is the next best option, followed by recycling, composting, and energy recovery. Safe disposal is the last option, if none of the others is feasible. The Department of Environmental Quality does not currently regulate biomass fuels as solid waste.

Senate Bill 993 specifically excludes woody biomass that is combusted as fuel by a facility that has obtained an air quality permit from the definition of solid waste.

It appears that the state is giving an exemption to woody biomass ash as far as regulation is concerned. There may be other costs associated with disposal but this appears to be a good bill. It also encourages woody biomass to be used as a fuel and that however is a losing proposition as far as economics is concerned. Biomass cannot be economically feasible as a product by itself. Biomass can only be feasible economically if it is coupled with a managed forest and sound timber harvest practices. In other words, we need to harvest timber, and have biomass as a secondary product,, and have biomass as a secondary product, to make biomass an economical product.