

JUDICIARY COMMITTEE
57th NEVADA ASSEMBLY SESSION

MINUTES

APRIL 5, 1973

The meeting was called to order by Mr. Keith Hayes, Chairman, on adjournment of the general assembly.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, GLOVER, TORVINEN, HUFF, FRY, LOWMAN, HICKEY AND MISS FOOTE.

MEMBERS ABSENT: NONE

GUESTS PRESENT: Col. Lambert, NHP; Mr. Winkleman, DMV; Esther Nicholson, LOWV; and press

Col. Lambert testified on A.B. 594, he said that the department would support this bill. "Anything we can do to curb the problems with carnage on the highways is a step in the right direction." He stated that the prime impact would be the mandatory jail sentence for the first time offense and the felony offense for a second conviction.

Mr. Winkleman, hearing officer for the Department of Motor Vehicles, said that A.B. 925 is a much more comprehensive bill than the one sponsored by the department. A Supreme Court decision in the Bell vs Berson case stated that everyone involved in financial responsibility should be afforded a hearing based upon due process. At the time of this decision the department developed procedures to offer all of these people hearings. The purpose of this bill is to provide in the statutes a provision for the hearing. Mr. Winkleman suggested some possible amendments to the bill that would make it more acceptable to the DMV. On Line 17, Page 1 which requires 30 days notice, under the present procedure if the person doesn't respond within 30 days the department has taken the stand that right has been waived. Line 21, Page 1 is not too good because the department would never have an idea of when they had received the notice. The feeling is that if they are given 30 days notice in the preceding paragraph this section should coincide. It could read "if the owner-operator requests a hearing he should respond within the 30 days", cross out "on receipt of the notice". Line 23 change 15 to 30 days. The other part of this bill which was not included in the original department submission begins on Line 15 of Page 2. The expense was questioned in regard to process serving. This should be permissive. On Page 2, Line 22 the policy now is to pay an officer if he is off duty but he is not paid if he is on duty. He said that the matter of concern on Page 3 is not too large but there is a requirement that a transcript be kept of all the hearings. Mr. Winkleman felt that it should go as is done under the driver's license law, Chapter 43, that the appeal to district court should go de novo, in this case a transcript is furnished. If this particular section should stay the way it is on Line 28 after the word "director" there should be something to include his appointed agent because it is the hearing officer who handles these matters. Mr. Winkleman pointed out that this is needed for statute coverage that it is only being done now on the basis of the Supreme Court's decision.

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Mr. Lowman asked Col. Lambert for an opinion on A.B. 591. Col. Lambert said that this is sometimes a "baiting problem". Also, the entertainment industry is opposed on the grounds that customers would be prevented from taking a taxi to another club and carrying their drinks with them. It would be difficult to enforce since it would be a simple matter to drain the container prior to being stopped.

Mr. Torvinen came in late and asked whether convention buses had been mentioned in regard to A.B. 591.

Esther Nicholson appeared in opposition to A.B. 588 saying that the League of Women Voters had worked very strenuously in the past session for the sealing of juveniles' records. This bill is too broad it would seem that law enforcement should go the same process for the unsealing as everyone else. Mr. Nicholson explained the process by which juvenile records are sealed, and basically after this had been accomplished it states in this section of NRS that all proceedings recounted in the records are deemed never to have occurred. "If you accept the idea of sealing of records and the juvenile meets the requirements necessary to have these records sealed then the assumption is that those past incidents did not happen." If there is sufficient reason to open these records it should be a matter for the courts to decide. Mr. Huff said that this would be fine but he was sure that the intent was not for all juvenile records to be sealed and this is what has happened in Las Vegas it is a difficult process to obtain information even on active files. Mrs. Nicholson maintained that this bill is too all encompassing and the League wished to go on record in opposition.

A.B. 879 was discussed in light of the fact that Mr. Lowman had been contacted by the sheriff's office in Las Vegas and they are in opposition and wish to be heard. The bill was scheduled for re-hearing on Tuesday.

Mr. Demers told the Committee that A.B. 821 is a companion bill to one already acted on to allow payment of district court jurors in cash. This bill is to provide the same for jurors and witnesses in justice court. This is giving legality to a process already being done.

ACTION:

A.B. 594 SUMMARY-Increases penalty for driving under influence of intoxicants.

Mr. Fry said a felony offense for a second time DUI is ridiculous, Mr. Hayes agreed.

Mr. Torvinen moved INDEFINITE POSTPONMENT, Mr. Fry seconded.

MOTION CARRIED INDEFINITE POSTPONMENT A.B. 594.

Mr. Hickey requested re-consideration of S.B. 387. Mr. Hickey moved to recommend DO PASS, Mr. Huff seconded.

Mr. Fry commented that he is changing his previous vote because it was registered in the "heat of battle" he said that he has been racked by the physicians who want this bill out.

Mr. Barengo noted that he too had been cornered by Dr. "Sal" who said that abortions are being done and the nurses need some protection.

MOTION CARRIED UNANIMOUSLY DO PASS S.B.387.

A.B. No. 612 SUMMARY-Provides for the authentication of fingerprint cards offered into evidence.

Mr. Hayes explained this increases the definition of public record of which they can take notice to include fingerprint cards.

Mr. Huff moved to recommend DO PASS, Mr. Hickey seconded.

MOTION CARRIED UNANIMOUSLY DO PASS A.B. 612

A.B. No. 613 SUMMARY-Provides immunity for certain persons from prosecution under chapter 453.

Miss Foote moved INDEFINITE POSTPONMENT, Mr. Fry seconded.

MOTION CARRIED UNANIMOUSLY INDEFINITE POSTPONMENT A.B. 613.

Miss Foote moved to re-consider A.B. 750, Mr. Hickey seconded.
MOTION CARRIED UNANIMOUSLY.

Mr. Barengo moved to amend and DO PASS, Mr. Lowman seconded.

MOTION CARRIED UNANIMOUSLY AMEND AND DO PASS A.B. 750.

A.B. no. 925 SUMMARY-Provides hearing prior to suspending license or registration of person under provisions of Safety Responsibility Act.

Mr. Huff moved to recommend DO PASS, Mr. Barengo seconded.
Mr. Fry, Mr. Torvinen, & Mr. Glover absent for the vote.
Mr. Lowman and Miss Foote voted against the motion.
MOTION FAILED.

Mr. Barengo moved INDEFINITE POSTPONMENT. Motion died, no second.

A.B. No. 821 SUMMARY-Permits payment of jurors and witnesses in justice court cases.

Mr. Huff moved to recommend DO PASS, Miss Foote seconded.

MOTION CARRIED. DO PASS A.B. 821

A.B. No. 940 was set for hearing and a list was given to the secretary to contact these people.

A.B. No. 591 SUMMARY-Prohibits drinking of intoxicating liquor by any person in vehicle moving on highway.

Mr. Lowman moved to recommend DO PASS, Mr. Huff seconded.

Mr. Torvinen, Mr. Barengo, Mr. Fry, absent for the vote.
Miss Foote, & Mr. Hickey voted against the motion.

MOTION FAILED

A.B. 936 was set for consideration on Tuesday and the secretary was instructed to inform Assemblyman Brookman.

A.B. No. 938 SUMMARY-Requires ex-convicts to register in each county or city in which they take up residence or stay for minimum period of time.

Mr. Huff moved to recommend DO PASS, Mr. Lowman seconded.
Mr. Barengo, Mr. Torvinen and Mr. Glover absent for the vote.
Mr. Fry voted against the motion.

MOTION CARRIED DO PASS A.B. 938

S.B. 433 was set for hearing on Tuesday and the secretary was instructed to notify Judge Mendoza

Mr. Lowman moved to adjourn. MEETING ADJOURNED.