

SENATE JUDICIARY COMMITTEE

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MINUTES OF MEETING HELD

26th DAY OF MARCH, 1973

The meeting was called to order at 9:00 a.m. Senator Close in the Chair.

PRESENT: Senator Dodge  
Senator Foley  
Senator Wilson  
Senator Bryan  
Senator Hecht

Steve Robinson, State Alcoholism Division  
Larry Best, Deputy District Attorney, Washoe  
County  
Ned Sullivan, Clark County Juvenile Court  
Dorothy Button, Nevada State Nurses Association  
Frank Daykin, Legislative Counsel Bureau  
Frank Fahrenkopf, Attorney at Law  
Richard Morgan, Nevada Educational Association

EXCUSED: Senator Swobe

S.B. 359 - Provides for civil protective custody in lieu of criminal sanctions for certain alcohol abusers.

Mr. Robinson offered the committee an amendment which would resolve the problem of the police officer's responsibility and liability. The change would state that police officers would not be civilly or criminally liable while acting in their official capacity of taking persons under the influence into civil protective custody.

Senator Close questioned why the Division would have to be involved every time a person was arrested for being drunk. Mr. Robinson replied that the Division would not necessarily have to be contacted every time and suggested that the wording in Section 4, subsection 5 be changed. Senator Dodge suggested changing the wording from "custody shall be communicated at the earliest practical time to the division.." to "placement of persons shall be communicated to the division or local authority designated by the division, where practical." Therefore, if there is no local authority set up, it would obviously not be practical to notify anybody, and the police officer would still be able to exercise the same discretion as is presently used whether to detain the person or take him home in the first or isolated case.

Senator Bryan was concerned that the language in Subsection 3, lines 4-7 would be subject to abuse if the person did not have a drinking problem as such and was kept in the jail for 72 hours if no facility were available. Mr. Robinson stated that the person

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effected would have the same due process rights as are presently allowed; that is, the right to counsel. Mr. Larry Best added that a writ of habeas corpus would apply in those situations.

Senator Bryan then asked what standards would apply as to when the person should be released after detoxification. Senator Dodge suggested writing in some language indicating that after the 72-hour detoxification period, further care and treatment would be on a voluntary basis.

Senators Wilson and Close pointed out that there seems to be an inconsistency since the limitations and restrictions contained in subsection 3 are not contained in subsection 4. Frank Daykin agreed with that observation stating that their order should be switched since subsection 4 is what ought to be done and subsection 3 is an alternative if the facility does not exist or has no room. The amended language would state, in keeping with the intent of mandatory placement, that the person shall be placed in such facility until detoxification or for no more than 72 hours; or if a licensed facility is not available, for no more than the same period of time or purpose in the city or county jail.

Dorothy Button asked the committee if subsection 2 of section 4 would indicate that the person is booked if taken to jail. She said that the nurses at the Clark County Jail were afraid they would be liable for false imprisonment for holding these people in protective custody without them being arrested. Senator Dodge informed her that matrons would be covered under the new paragraph 6 of the amendment, which states that peace officers would not be civilly or criminally liable.

Senator Echols testified that one of the purposes of the protective custody was to establish a personal record of each individual. Nothing contributes more to the rehabilitation effort than the sequence of events in a person's life which have lead to excessive use of alcohol. Senator Close objected to another level of keeping track of names and arrest records. Senator Wilson remarked that these people are entered on a booking record under the present law, and this could be carried by the local facility. Mr. Daykin suggested the language "his detention shall be recorded at the facility to which he is taken," whether it be jail or a local alcohol abuse facility.

Senator Dodge moved to amend and "DO PASS". Motion seconded by Senator Bryan.

Yeas - 5  
Nays - None  
Absent - Swobe (1)

Motion carried.

S.B. 455 - Deletes certain provisions  
of evidence law.

Senator Foley mentioned that he asked for this bill at the request of Judge Sundeen who was the only judge who objected to the provisions of the evidence code.

Senator Bryan felt that the real problem with the bill is that it repeals so much in the last section, and repeals the provision for expert witnesses.

Senator Dodge moved to indefinitely postpone action on this bill. Motion seconded by Senator Wilson.

Yeas - 5  
Nays - None  
Absent - Hecht, Swobe (2)

Motion carried.

S.B. 458 - Requires good-faith performance of franchises between liquor suppliers and wholesalers and provides sanctions for any breach.

Mr. Fahrenkopf testified that present franchise contracts between the wholesalers and retailer ought to govern the rights of the franchisee. This type of adhesion contract would come within the scope of Article II of the UCC dealing with sale of goods by regulations through sales requirements and good faith. If that contract does not provide for cancellation or termination, then the franchise holder could go into court, even without this bill, and indicate that he had an adhesion contract and perhaps raise some anti-trust factors. He feels that dealers presently have protection in the area of franchises.

Mr. Fahrenkopf testified also that in the past 5 years the franchise market has grown considerably. The only way for protections to come in this area is to have the SEC apply across the board regulations rather than the legislature picking out one industry.

Senator Hecht expressed his opinion that the legislature should not enact special interest legislation. Senator Dodge stated that this industry (alcoholic beverages) is no different than any other franchises that exist, and it is not proper legislative action to get into these areas.

Senators Foley and Bryan stated that they have sympathy for franchise holders, but felt that this bill is not the vehicle to correct any inadequacies.

Senator Dodge moved to indefinitely postpone action on this bill.  
Motion seconded by Senator Hecht.

Yeas - 6  
Nays - None  
Absent - Swobe (1)

Motion carried.

S.B. 404 - Requires brewers to designate  
exclusive wholesale dealers for  
defined territories.

The bill introducer, those who testified at the hearing scheduled  
on this bill, and members of the committee did not know where the  
bill came from or who supported or objected to its passage or  
defeat.

Senator Dodge moved to indefinitely postpone action on this bill.  
Motion seconded by Senator Hecht.

Yeas - 6  
Nays - None  
Absent - Swobe (1)

Motion carried.

S.B. 345 - Regulates sale and distri-  
bution of alcoholic beverages.

The committee felt that this bill is a narrow approach to the  
problem as testified to in previous hearings on this bill, since  
it would not preclude wholesalers from becoming retailers.

Senator Hecht moved to indefinitely postpone action on this bill.  
Motion seconded by Senator Wilson.

Yeas - 6  
Nays - None  
Absent - Swobe (1)

Motion carried.

S.B. 397 - Enacts the Uniform Residential  
Landlord and Tenant Act.

The committee agreed that there are areas of abuses, such as lock-  
outs, utility cut offs, code violations, and security deposits;  
however, several members stated their objections to this particu-  
lar bill.

Senator Dodge felt that if legislation would force code observance on some landlords, it would eliminate housing which now constitutes housing for poor people. He too felt that abuses, other than code violations, need to be zeroed in on.

Senator Bryan stated that he had introduced legislation last session which addressed the areas of abuse the committee seemed most concerned with and offered to locate that legislation and rewrite it to incorporate the codification of the existing law as contained in some parts of this bill; provide three-fold damages for the tenant as in this bill in Section 34, page 11, line 26; and provide a procedure and time period for disposing of personal possessions abandoned by a tenant.

Senator Dodge moved to indefinitely postpone action on this bill. Motion seconded by Senator Bryan.

Yeas - 5  
Nays - None  
Absent - Hecht, Swobe (2)

Motion carried.

S.B. 493 - Prohibits loss of job seniority or discharge from employment for legislators while serving in Legislature.

Richard Morgan testified that this bill is the result of legal difficulties in the legislature last session. The law was amended to provide that private employees could not be terminated due to their duties during the legislature. This bill would equalize that law to apply to both private employees and public employees.

Senator Dodge stated his opinion that rather than amending the statutes to provide for both public and private employees, the private employers should be eliminated. This would not preclude both private and public employees from making arrangements with their employers for a leave of absence. He felt that by passing this bill, employers who feel they can not afford the employee's loss of time would not be free to make that decision.

Mr. Morgan remarked that he felt the fundamental importance of this bill is the question of balance between private and public employees. He also stated that leaves of absence are negotiable under public employees' contracts.

S.B. 368 - Authorizes issuance of stop order to employers failing to provide industrial insurance.

The committee felt that the same consideration for adding amend-

ments to S.B. 249 providing for a summary proceeding should be applicable to this bill.

Senator Bryan moved to amend and "DO PASS". Motion seconded by Senator Dodge.

Yeas - 4

Nays - None

Absent - Foley, Hecht, Swobe (3)

Motion carried.

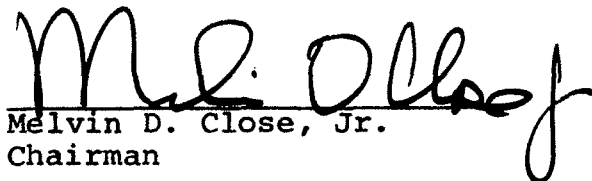
The motion was made and seconded to reconsider previous action taken on S.B. 345, S.B. 404, and S.B. 458. Motion carried.

The meeting was adjourned at 10:45 a.m.

Respectfully submitted,

  
Eileen Wynkoop  
Secretary

APPROVED:

  
Melvin D. Close, Jr.  
Chairman