

ASSEMBLY JUDICIARY COMMITTEE
58TH NEVADA ASSEMBLY SESSION

MINUTES

May 16, 1975

Action was taken prior to recording the minutes of this meeting, copy of which is attached hereto.

MEMBERS PRESENT: Messrs BARENGO, HEANEY, HICKEY,
LOWMAN, SENA, BANNER, POLISH,
Mrs. HAYES and Mrs. WAGNER.

MEMBERS ABSENT: NONE

A.B. 773

Following discussion of the bill, Mr. Hickey moved to amend the bill by striking everything except Section 1. Mrs. Wagner seconded the motion. Motion carried unanimously by those present, Mr. Sena, Mr. Banner and Mrs. Hayes not present at the time of voting.

Mr. Hickey moved "Do Pass" as amended on A.B. 773. Mrs. Wagner seconded the motion. Motion carried unanimously by those present, Mr. Sena, Mr. Banner and Mrs. Hayes not present at the time of voting.

Meeting recessed at 8:10 a.m. Reconvened at 8:30 a.m.

S.B. 556

Senator Close said this is a bill dealing with a Supreme Court opinion handed down during the past year stating it was no longer necessary to file a claim with the city, county or state as a precedent to recovering against them. It was felt there is a valid purpose served in having these claims filed. The entity becomes aware there is a problem and can repair it. In trying to get around the Supreme Court opinion, the bill provides there would have to be a filing and a hearing to see whether or not there was merit in the claim, and payment could be made without going to court. It also increased the power of the State Finance Board to pay up to \$25,000 in the appropriate situation.

Discussion was held with the committee on contents and manner of handling of the bill.

A.B. 786

Mr. Carl Lovell, City Attorney, City of Las Vegas, said originally when the demonstration sales type business came along they were called auctions or jam auctions. The City of Las Vegas felt there was not enough regulation or control for this type of business

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and, in early 1973, proposed its own retail demonstration merchandise sales ordinance which was passed, and has been utilized as a privileged license for these jam auctions. Apparently the intent of this bill is to further limit and control these jam auctions, but it does leave some vagueness as to what an auction or jam auction is. He stated there may be some problem with Section 6, 2 (b) since jewelers apparently vary as to determination of the number of jewels in a watch or clock. Section 7 is exceptionally good and is a necessity. Section 11, paragraph 4, he also felt was necessary. Paragraph 5 was felt to be vague. The bill needs an enforcement provision, and it should allow the cities and counties, by ordinance, to adopt further restrictive standards and regulations. Also, it should state that the State does not pre-empt the field but allows these further restrictions. It should allow the District Attorneys, Attorney General and City Attorneys to use the remedies and law enforcement of NRS 598 which is the Fair Trades Practices, Consumers Protective Act of 1973.

Mr. Lovell then offered the following amendments to the bill:

Section 3 on the first page after "bidder" add: "and includes those businesses referred to as a retail demonstration sales businesses and the outgrowth businesses therefrom."

Mrs. Wagner indicated this would refer to the businesses in Las Vegas and the same type of business could operate in another city under another type of business name.

In answer to Mr. Barengo's question concerning previous testimony to the effect that the City's ordinance had been struck down in court, Mr. Lovell replied that to his knowledge it had not.

Mr. Lovell indicated Section 4 should include individuals referred to as demonstrators of goods.

Section 9, after "the successful bidder at an auction may rescind the transaction" insert "either verbally in person" and continue with "or by giving written notice."

Add a new Section 14:

1. Any violation of the provisions of this act shall be punishable as a misdemeanor up to \$500 or up to 6 months in jail or both.
2. Any 3 convictions of violations of this act shall be cause for revocation of any business license issued pursuant to these regulations and provisions.

3. The Attorney General, District Attorney or City Attorney may utilize any remedies or provisions of Title 52 of the Nevada Revised Statutes, and Chapter 598 of the NRS in enforcing the provisions hereof.

Add a new Section 15:

Regulation of auctions, retail demonstration sales businesses and auctioneers is not pre-empted by the State, and counties and cities may adopt by ordinance further restrictive standards and regulations if they feel appropriate.

Mr. Bilbray asked if the bill were passed it would apply to his clients and Mr. Barengo replied if it were passed as it is now, it would not apply to his clients. Mr. Bilbray said his clients would be driven out of business if it were to apply and would lose their investment in merchandise, as well as suffer a loss as a result of having signed long term leases. He presented appraisals on merchandise handled by his clients, as well as examples of the merchandise which was sold. He expressed objection to the provision in the bill that refunds must be given on demand within 72 hours of the sale, stating that customers could damage merchandise in that period and demand a refund, or run out of money and make the same demand. He objected to the restriction in the bill on giving free merchandise to customers, stating there is nothing wrong with giving a prize away. He objected to the provision in Section 4 that a salesman could not urge or persuade a customer since any other salesman does this. He said the City ordinance protects against noise or putting something in the street, and there should be allowance for something such as a swinging pendulum in the window to attract attention. He also felt a grab bag should be allowed and exhibited the type of merchandise which had been used for such.

Mr. Bob Lydon, Store Manager, in response to Mrs. Wagner's question as to the source of supply of merchandise, replied that it came from New York and California.

Mr. Bilbray said the provision for the placement of a sign concerning the 72-hour refund was inequitable since no other business is required to place this type of sign. It is agreeable to have the refund requirement in the statute, but the placing of the sign. Mr. Bilbray requested the opportunity to go over the bill further and present amendments.

AJR 35

Mr. Barengo said AJR 35 was passed out of this committee previously. It asked the Congress to conform the IRS regulations to the recent decision in Las Vegas on casino dealers' tips. Since it has been determined this case is on appeal and this resolution might in some way affect that appeal and interfere with the judicial process, Mr. Barengo requested this committee do pass a resolution recalling AJR 35. It was so moved, seconded and unanimously carried.

The meeting was adjourned at 9:20 a.m.

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ACTION TAKEN PRIOR TO OFFICIALLY SCHEDULED MEETING ON MAY 16, 1975

S.J.R.23 was considered first with Bart Jacka, Las Vegas Metro Police Dept., testifying. There was an appropriate motion and a second, and a vote indicated that 8 members of this Committee wished to DO PASS S.J.R.23. Mrs. Wagner was absent for the vote.
MOTION CARRIED DO PASS S.J.R.23.

Mr. Banner moved DO PASS S.B.582, and Mr. Sena seconded. There was a vote of 8 members in favor of this motion with Mrs. Wagner absent for this vote.
MOTION CARRIED DO PASS S.B.582.

As to S.B.583, Mr. Lowman moved DO PASS, and Mr. Banner seconded. 8 voted in favor of this motion with Mrs. Wagner absent for the vote.
MOTION CARRIED DO PASS S.B.583.

As to A.B.512, the proposed amendment was discussed, and a motion and a second was made to adopt this motion. The vote showed 6 in favor of adopting the amendment with 3 dissenting. Mr. Heaney moved to DO PASS AS AMENDED, and this motion was seconded. 7 were in favor of this motion and 2 dissented--Hickey and Hayes.
MOTION CARRIED DO PASS A.B.512 AS AMENDED.

Mr. Lowman moved to DO PASS S.J.R.29, and Mr. Polish seconded. 7 voted in favor of this motion, and 2 dissented.
MOTION CARRIED DO PASS S.J.R.29.

Mr. Heaney moved DO PASS S.J.R.30, ^{of 57th session} and Mr. Polish seconded. The vote was unanimous in favor of this motion.
MOTION CARRIED DO PASS S.J.R.30.

Mr. Banner moved DO PASS S.C.R.55, and Mr. Lowman seconded. The vote was unanimous in favor of this motion.
MOTION CARRIED DO PASS S.C.R.55.

THIS CONCLUDES ACTION WHICH WAS TAKEN BEFORE MINUTES OF THE MEETING BEGAN.