

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

April 4, 1975

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

Present: Senator Close, Chairman
 Senator Wilson
 Senator Bryan
 Senator Dodge
 Senator Sheerin
 Senator Foote
 Senator Hilbrecht

SB 415 Defines adulterated, misbranded drugs and devices to include those drugs, devices deemed adulterated, misbranded under federal law.

George Bennett, Secretary of the State Board of Pharmacy appeared in support of this measure. He informed the Committee that the bill would add the requirement that anything deemed misbranded or adulterated would automatically be so deemed under state law. It would strengthen Chapter 585 to allow seizure or any other legal action within the State rather than having to go to the federal courts.

James Edmonson, Bureau of Environmental Health informed the Committee that this act is administered by the Food and Drug Commission.

S. D. Mastriana stated, in response to a question from Senator Dodge, that at the present time, the state cannot seize an adulterated drug but can only quarantine it. This he said, effectively keeps it out of the hands of the public.

Senator Hilbrecht pointed out that there is a big difference between saying you want to adopt the present federal standards and adopting whatever the standards might be. What you are doing, in his opinion, is advocating the State's legislative authority to the federal government. If they change their standards, then our statutory standards would automatically change too.

Mr. Edmonson replied that the State does not have the facilities to examine the drugs for adulteration and therefore must rely on the federal government.

Mr. Bennett stated that in the State Controlled Substances Act, under present law, if the federal government reschedules some of the controlled substances, we are required by statute to have a hearing and reschedule as they did unless the hearing brings out the fact that it should not be done. He suggested that perhaps this approach could be taken to satisfy Senator Hilbrecht's objection to abdication of the state's authority.

Senator Hilbrecht responded that there is a difference in having an administrative procedure by which we promulgate a regulation as law rather than simply buying whatever the federal regulation might be. However, he pointed out, that as a practical matter, the result is essentially the same.

No action was taken at this time.

SB 407 Prescribes conditions precedent to tort actions against present and former public officers and employees and provides public defense of such actions.

Mr. Frank Holzhauser, Chief of Planning in the Department of Human Resources stated that he

had been directed by Roger Trounday, Director of the Department of Human Resources and the Attorney General's Office to testify in favor of SB 407. He informed the Committee that Del Frost, Rehabilitation Department had had some personal experience in this matter and would perhaps be better able to shed some light on the subject.

Mr. Frost stated that he was a public official who was a participant in a law suit resulting from an action taken by himself and his superiors when he was an administrator for the State Prison. As a result of that action, the State moved to separate itself from them, leaving them to fend for themselves and to pick up exorbitant legal fees for their own protection and defense. He stated that because of the State's action, they were all released from liability because any action they had taken was discretionary and there were certain legal precedents that covered them. He further stated that you should be sued or liable if you are wrong but that the State should stand behind its officials in these situations.

Howard Barrett stated that this was his bill and that he had requested it for the reasons stated by Mr. Frost. He feels that state employees should be defended by the State if what they were being sued for was done in the course of their employment and if they were acting within the scope of their duties.

In discussing the bill, Senator Dodge pointed out that there may be a problem in the language when you talk about the fact that the action must be brought under the sovereign immunity to the employee; the employee does not have the sovereign immunity that the State does. He felt that the problem could be taken care of by amending line 6 and adding "unless the State or appropriate political subdivision is named a party defendant under NRS 41.031."

Senator Hilbrecht will talk to Frank Daykin, Statute Reviser about the amendment and report to the Committee.

It was also the general consensus of the Committee to make this bill effective upon passage. No action was taken at this time.

*SB 413 Expands list of dangerous weapons prohibited from being manufactured, imported, sold or possessed.

Herb LaHue, head of the Judo and Jujitsu school testified in favor of this bill. He read to the Committee the following excerpt from a book by Fumu Demureo, Martial Artist: "Although the study of true Karate encompasses many diverse facets, modern day Karate is primarily considered self-defense without weapons. In centuries past, the true Karate experts were actually warriors; knowledgeable in every means of self-defense and expert in the use of the weapons of their day. It is my belief that all serious students should be familiar with the use of the weapons of these by-gone days for the historical and moral enlightenment they can bring to them. Weapons can be self-disciplining in practice, requiring dexterity that could not otherwise be achieved through normal training. With practice, the nun chuku becomes an extension of the hand. It develops a fluid movement almost like Kung Fu, a Chinese form of self-defense in which reactions flow smoothly from one step to another. In addition, practice with a nun chuku will affect the balance and help develop the wrist." Mr. LaHue commented that there is a tradition behind the nun chuku and therefore, he requests that it be deleted from the list of dangerous weapons.

George Holmes, martial artist concurred with Mr. LaHue's remarks and stated that almost any article, in the wrong hands, could be considered a dangerous weapon.

Dave Laiser, instructor at the Academy of Karate in Carson City appeared with Mr. Holmes and Mr. LaHue to protest the inclusion of the nun chuku on the dangerous weapons list. He stated that at his school, he taught the use of weapons primarily to show how to defend

against the use of them; to show form, style and grace.

Ben Smith, martial artist informed the Committee that the nun chuku is used in competition and tournaments as part of the tradition of the martial arts.

After further discussion, it was the decision of the Committee to delete the nun chuku.

Senator Foote moved to amend and do pass,
Seconded by Senator Wilson,
Motion carried unanimously. Senator Hilbrecht was absent from the vote.
*See minutes of April 11, 1975 for further comments.

SB 52 Makes changes in law relating to sexual crimes against persons.

The Committee reviewed the bill in its amended form. Following a brief discussion, Senator Dodge moved a do pass,
Seconded by Senator Wilson,
Motion carried unanimously. Senator Hilbrecht was absent from the vote.

SB 173 Enacts the Nevada Anti-Trust Act.

The Committee reviewed Don Klasic, Deputy Attorney General, revision on restraint of trade. Senator Dodge stated that he felt it pretty well satisfied his concern over the court initiating the handing over of an organization's documents for review by the Attorney General. In view of the widespread concern over this bill, he felt that the best thing to do would be to amend the bill in its present form and have new hearings on it.

Senator Wilson moved to amend and rerefer,
Seconded by Senator Sheerin,
Motion carried unanimously. Senator Hilbrecht was absent from the vote.

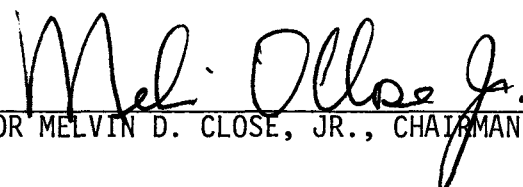
Senator Wilson requested that the Committee introduce BDR 3-724 which provides for indemnity of public officers and employees in certain cases. Introduction was approved unanimously.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:


SENATOR MELVIN D. CLOSE, JR., CHAIRMAN