

The meeting was called to re-convened at 9:10 a.m. Senator Close was in the chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Don Ashworth
Senator Ford
Senator Raggio
Senator Sloan

ABSENT: Senator Dodge, excused

SB 293 Adds to declaration of public policy with respect to gaming licensing and control.

Senator Close stated that two years ago Herb Jones proposed this piece of legislation and it was inadvertently left out in the drafting.

Senator Sloan moved that SB 293 be passed out of Committee with a "do pass" recommendation.

Seconded by Senator Ford.

Motion carried unanimously. Senators Ashworth and Dodge were absent for the vote.

SB 122 Increases commission deducted and tax payable by licensee for certain pari-mutual betting.

(See minutes of February 28, March 1 and 26 for previous testimony and discussion)

Senator Sloan moved that SB 122 be passed out of Committee with a "do pass" recommendation.

Seconded by Senator Ford.

Motion carried unanimously. Senators Ashworth and Dodge were absent for the vote.

SB 165 Tightens certain provisions relating to gaming licensing and control.

(See minutes of February 28 and March 1 for previous testimony and discussion.)

Senator Close stated he would like to go through the amendments with the Committee

There were no changes on the first page.

On lines 15 and 16 on the second page we are taking out "except a bona-fide entertainment contract." After "any contract or agreement" we are adding "without prior approval of the Commission."

Senator Dodge stated that he felt on line 16 it should read "who has been found unsuitable" rather than "who is found."

Senator Close stated that they want to make sure that it only applies after the finding of unsuitability. The purpose of this amendment is to take out that exception of bona-fide entertainment contracts and then permit the Commission to utilize its discretion to permit a person who has been found unsuitable to enter into a contract with a hotel.

Senator Raggio asked how this would affect existing contracts.

Senator Close stated that there is a provision in the law now that provides that every contract with a hotel have that specific language. I am not sure how this would affect the entertainer.

Senator Sloan stated that there was a decision in the Koscot case, by the Supreme Court, where they had the pyramiding sales. The Legislature enacted a law which gave them the right to lag and impair present contractual rights, because they felt it was their right to exercise police power. In the Goldberg case the work part statute was applied retroactively to someone who was deprived of his right to work, even though it was not a conviction heard prior to the time the statute was tolled.

Senator Raggio stated he supported the amendment, but feels that they shouldn't leave this session thinking that we have solved all the loopholes with this legislation.

Senator Sloan stated that the two cases the state is most concerned with, were entered into prior to the time the bona-fide entertainment exception was put into the law. So the status of the law would have been such that it would have been under Sub-section 4. He felt they should wait and look at that one page where the Supreme Court upheld the police powers to abrogate contractual rights.

Frank Daykin stated that a pending contract with a hotel would be unaffected because of the supremacy clause of the Federal Constitution. However, the statute would operate prospectively to prevent the entering into of any other such contract.

Senator Close asked about the language on Page 2, line 4. What about the fact that each contract that is deemed to be must have an escape clause in it?

Frank Daykin stated that to the degree that it is effective, it would also govern this situation and is subject to termination. That is a person terminated pursuant to Sub-section 3. That refers to an employee and not to an independent contract.

Senator Raggio stated that since we have entertainers exemptions, would that affect the contract entered into with the enter-

tainer previous to this being found constitutional. If he were found unsuitable, would that affect his existing contract?

Mr. Daykin stated that if the original contract was entered into before you make him subject to this Sub-section, than I think he still has a contract. One argument you could make against it is that our Supreme Court, in effect, said that none of the federal guarantees apply to this privileged enterprise, and the United States Supreme Court said that that presents no federal question. Under ordinary principals of law, you are not going to impair the existing contract.

Senator Sloan asked if there was a Supreme Court decision relative to pyramid sales. The Legislature passed a bill which had the effect of going back and making those contracts retroactively avoidable.

Mr. Daykin stated that was Koscot Interplanetary.

Senator Sloan asked if that would not be seen as an impairment of contractual rights because of the circumstances and the exercise of police power.

Mr. Daykin stated that the contract in Koscot were in effect fraudulent contracts and they were protecting the public from being bound by that sort of a contract. That would afford some basis for arguing here, but not a conclusive one.

Senator Sloan stated that there is a provision in NRS 463.160, which again provides for termination of agreements for other than employees. Would that not get to production companies and other forms of entertainment?

Mr. Daykin stated that conceivably it might. It would depend upon how the entertainer exemption was construed. If it was construed the way Senator Sloan and he argued before Judge Gregory, than Chapter 160 would reach it and its exemption. If it were construed the way the other side was arguing than that is specific and Chapter 160 would not govern.

Senator Sloan asked what if the contracts were entered into before the creation of the entertainment exception?

Mr. Daykin stated that he would think we would go back to the general principals of law; that this was a privileged industry and had no basis to expect anything different.

Senator Close asked about changing the word "is" to "has been found unsuitable." This would speak prospectively rather than retroactively.

Mr. Daykin stated that that is probably the proper construction of the statute now, but "has been" would make it clearer.

After some discussion by the Committee about the language that seemed to keep coming back to the employee, instead of the

independent contractor, their consensus was to hold the bill for further action. They would talk with the gaming people to find out what their reasoning was for writing it this way.

SB 143 . Requires interpreters for certain handicapped persons in judicial and administrative proceedings.

Senator Close stated that Senator Ford had provided each of the Committee members with amendments as suggested by the Department of Human Resources (see attachment A).

Senator Ford stated that these amendments were a result of her talking with the Welfare Division about the problems that the Committee had with the bill.

Senator Close stated they would look at these amendments and see if they resolved the problems. He stated that civil proceeding should come out in Section 3. If someone subpoenas one of these people as a witness, than that someone should have the responsibility of providing the interpreter and paying for him.

Senator Sloan stated that in NRS 50.050, there is already a mandatory provision for witnesses, however, it does not say who is going to pay. It only states that "the Court or Magistrate shall fix a reasonable compensation."

Senator Ford stated that that is being proposed to be repealed by this bill.

Senator Sloan stated that he thought that was clear. He saw no need to tamper with the existing law.

Senator Close stated that the definition of interpreter would be added into NRS 171.1535, Sub-section 2. This would then track with the 50 series.

Senator Ford stated that under Section 4 the Division would maintain a list. It would be in the law but not exclusionary.

Senator Raggio stated that he felt the way it was drafted that it would be exclusionary. You have to appoint one of their people on this list or the court can't use them. He stated he didn't understand what they were trying to get at as they came in and testified with the inference that Federal Law required these interpreters. In checking we found out it is not required.

Senator Ford asked Senator Raggio what he would suggest.

Senator Raggio stated he didn't see anything wrong with the existing law. It states that an interpreter should be made available under the same circumstance and manner, and same procedure for compensation in regular administrative hearings as we do in other civil and criminal proceedings. He doesn't feel there needs to be all this specificity with respect to

appointing interpreters.

Senator Close stated that he would like to suggest the following:

Take out civil proceeding in Section 3.

Under Section 4 we provide that the Department might provide the list. We then pick up 50.050 and add this language in. We will then conform NRS 50.050 and NRS 171.1535, with the changes we make here.

He stated he will have the amendments drawn up and brought back for Committee review.

No action was taken on this bill at this time.

AB 316

Reclassifies certain batters as to type of crime.

Senator Ford stated that this was a proposal that came from the Committee to Aid Abused Women, rather than have a bill drafted at this point, we could add the changes in here. First we would change "physical Injury" to "substantial bodily harm." She also has requested changing the definition of battery.

Senator Close stated that this would be an addition to the language in Section 1, line 4. It would read "battery means any willfull and unlawfull use of force or violence upon the person of another, including family or household members who reside together."

Senator Raggio stated that when you say battery upon the person of another, why foul it up in the statute by saying including. The problem they are trying to get to is the battered wife. The problem though is that a wife comes in and makes a complaint and then they arrest the individual, and then she doesn't want to go through with it. This language is not going to change that problem. Another problem with this bill is on line 11. It states "other than a battery committed by an adult on a child." It seems to say that there is no offense for battery on a child. It would be better to have a generic definition. He stated he could see the situation where a daughter that wasn't living with the family was beaten up, and there could be no recourse.

Senator Close stated that the language on line 12 states, "by an adult upon a child not constituting child abuse shall be punished." He felt that covered the situation.

Senator Raggio stated it should be made clear that that does not go to the corporal punishment by a parent or teacher.

Senator Sloan moved that AB 316 be passed out of Committee with an "amend and do pass" recommendation.

Seconded by Senator Raggio.

The motion carried unanimously. Senators Ford and Dodge were absent.

(Committee Minutes)

SB 295 Requires certain justices of the peace to serve full time.

See minutes of March 13 and 14 for previous testimony and discussion.

Senator Raggio stated that this should be conformed to NRS 3.120.

Senator Sloan stated he agreed. We all thought this was the law and I agree that District Court Judges should not have private practices. The raise that they received two years ago was predicated on this point. They are now making over \$40,000 a year, so they don't need a private practice.

Senator Raggio stated that as far as the justice courts go, the existing provision should remain.

Senator Sloan stated he thought the J.P.'s should be included. There is one J.P. in Las Vegas that has a private practice and they have to call in an outside judge to come in and sit for him.

Senator Close stated that he will have an amendment prepared to bring in the District Court Judges and all the J.P. Courts in townships of over 60,000. This would exclude private practice. We will make the bill effective on termination of their present terms.

No action was taken at this time.


BDR 20-1921 Senator Close stated this came from Senator Sloan. It increases county officer salaries. (SB 375)

Senator Sloan stated this is a pay raise for the District Attorney's only, and they asked me to introduce this.

The Committee agreed unanimously for Committee introduction. Senator Dodge was absent from the vote.

As the Committee had to go into general session the meeting was adjourned.

Respectfully submitted


Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES

~~FRANK J. FROST, ADMINISTRATOR~~
RALPH R. DISIBIO, Ed.D., DIRECTOR

ROBERT LIST, GOVERNOR



REHABILITATION DIVISION
ADMINISTRATIVE OFFICE
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505 EAST KING STREET
STATE CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

March 13, 1979

Senator Melvin D. Close, Chairman
Senate Judiciary Committee
Nevada State Senate
Carson City, NV 89710

*to you
Ford
John J*

S.B. 143 AS DISCUSSED

Based on discussions between you and Senator Ford, and John Griffin and Toni Hensley of this Division, I offer the following amendments to S.B. 143 for your consideration.

Section 3. *An interpreter must be appointed for a handicapped person who is a party to or a witness in a criminal judicial proceeding, or who is a subpoenaed witness in a civil proceeding.*

Section 4. 1. *An interpreter appointed for a handicapped person must be:*

- a. *Named on a list which the rehabilitation division of the department of human resources shall maintain to identify persons who are able to communicate with handicapped persons, translate the proceedings for them and accurately repeat and translate their statements; or*
- b. *A person chosen by the handicapped person to serve as interpreter.*

2. *If the appointed interpreter is not effectively or accurately communicating with or on behalf of the handicapped person, and that fact becomes known to the appointing authority, another interpreter must be appointed.*

3. *Unless no other interpreter is reasonably available, a person may not be appointed as an interpreter for a handicapped person if he or she is:*

- a. *The spouse of the handicapped person or related to him or her unless it is agreed to by all parties in the action; or*
- b. *Otherwise interested in the outcome of the proceeding or biased in some way.*

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Senator Melvin D. Close
March 15, 1979

Section 7. *In any State, county or municipal judicial criminal proceeding in which a handicapped person is a party or a witness, or civil proceeding in which a handicapped person is a subpoenaed witness, the judge or magistrate is the appointing authority.*

The fiscal note was intended to be an estimate to inform the Legislative Counsel Bureau of the possible impact on entities affected by the legislation. The total amount being so small and the number of entities being so widespread, our intent in drafting the legislation was that each entity's operational budget could reasonably handle the costs of funding this service to guarantee these basic rights of the deaf and hearing-impaired. However, if an appropriation is deemed necessary, then I recommend that the mechanism be a special fund in the Rehabilitation Division which would be restricted and used for purposes of the law and pursuant to procedures established by the Division.

DF by John Griffin
DEL FROST, ADMINISTRATOR

DF/ikf

cc: Senator Jean Ford

SENATE BILL NO. 122—SENATOR LAMB

JANUARY 25, 1979

Referred to Committee on Judiciary

SUMMARY—Increases commission deducted and tax payable by licensee for certain pari-mutuel betting. (BDR 41-655)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to pari-mutuel betting; increasing the commission deducted and the tax payable by a licensee; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 464.040 is hereby amended to read as follows:
2 464.040 1. The commission deducted from pari-mutuels by any
3 licensee licensed under the provisions of this chapter [shall] *must* not
4 exceed [13] 18 percent of the gross amount of money handled in each
5 pari-mutuel pool operated by him during the period of the license.
6 2. Each licensee shall pay to the Nevada gaming commission for the
7 use of the State of Nevada a tax at the rate of [2] 3 percent on the
8 total amount of money wagered on any racing or sporting event except
9 horse racing and dog racing.
10 3. The licensee may deduct odd cents less than 10 cents per dollar
11 in paying bets.
12 4. The amount paid to the Nevada gaming commission [shall] *must*
13 be, after deducting costs of administration which [shall] *must* not exceed
14 5 percent of the amount collected, paid over by the Nevada gaming
15 commission to the state treasury for deposit in the general fund.

SENATE BILL NO. 293—COMMITTEE ON JUDICIARY

MARCH 2, 1979

Referred to Committee on Judiciary

SUMMARY—Adds to declaration of public policy with respect to gaming licensing and control. (BDR 41-1393)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to gaming licensing and control; declaring that the public policy of the state with respect thereto includes fostering the stability and success of the industry; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 463.130 is hereby amended to read as follows:
2 463.130 1. The legislature hereby finds, and declares to be the
3 public policy of this state, that:
4 (a) The gaming industry is vitally important to the economy of the
5 state and the general welfare of the inhabitants.
6 (b) The continued growth and success of the gaming industry is
7 dependent upon public confidence and trust that licensed gaming is con-
8 ducted honestly and competitively and that the gaming industry is free
9 from criminal and corruptive elements.
10 (c) Public confidence and trust can only be maintained by strict
11 regulation of all persons, locations, practices, associations and activities
12 related to the operation of licensed gaming establishments and the manu-
13 facture or distribution of gambling devices and equipment.
14 (d) All establishments where gaming is conducted and where gam-
15 bling devices are operated, and manufacturers, sellers and distributors
16 of certain gambling devices and equipment in the state shall therefore be
17 licensed, controlled and assisted to protect the public health, safety,
18 morals, good order and general welfare of the inhabitants of the state, *to*
19 *foster the stability and success of the gaming industry* and to preserve
20 the competitive economy and policies of free competition of the State of
21 Nevada.
22 2. No applicant for a license or other affirmative commission
23 approval has any right to a license or the granting of the approval

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.

ASSEMBLY BILL NO. 316—COMMITTEE ON JUDICIARY

FEBRUARY 7, 1979

Referred to Committee on Judiciary

SUMMARY—Reclassifies certain batteries as to type of crime. (BDR 16-837)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to crimes against the person; redefining the types of battery which may be charged as misdemeanors; providing penalties; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 200.481 is hereby amended to read as follows:
2 200.481 1. As used in this section:
3 (a) "Battery" means any willful and unlawful use of force or violence
4 upon the person of another.
5 (b) "Child" means a person less than 18 years of age.
6 (c) "Officer" means:
7 (1) A peace officer as defined in NRS 169.125;
8 (2) A person employed in a full-time salaried occupation of fire-
9 fighting for the benefit or safety of the public; or
10 (3) A member of a volunteer fire department.
11 2. Any person convicted of a battery, other than a battery committed
12 by an adult upon a child, shall be punished:
13 (a) If the battery is not committed with a deadly weapon, and no
14 **[physical injury]** *substantial bodily harm* to the victim results, for a
15 misdemeanor.
16 (b) If the battery is not committed with a deadly weapon, and sub-
17 stantial bodily harm to the victim does result, for a gross misdemeanor.
18 (c) If the battery is committed upon an officer and:
19 (1) The officer was performing his duty;
20 (2) The officer suffers substantial bodily harm; and
21 (3) The person charged knew or should have known that the victim
22 was an officer, **[for a felony.]** *by imprisonment in the state prison for not*
23 *less than 1 year nor more than 6 years, or by a fine of not more than*
24 *\$5,000, or by both fine and imprisonment.*
25 (d) If the battery is committed with the use of a deadly weapon, by
26 imprisonment in the state prison for not less than 2 years nor more than
27 10 years.