

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

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

ABSENT: None

SB 262 Specifies certain rights and liabilities of lessor and lessee upon termination or expiration of lease of motor vehicle.

For testimony and further discussion of this measure, see the minutes of the meetings for March 9, 27 and 29, April 19, 23 and 25, 1979.

Senator Close informed the committee that Dearm Sharp had called him and told him that the federal law requires the lessor to pay attorneys fees for the lessee. Senator Close stated that that was contrary to Nevada policy.

No action was taken at this time.

Senator Raggio joined the meeting at this time, greeted by a rousing round of applause.

SB 442 Increases limitation on value of property subject to home-
stead exemption.

For testimony on this measure, see the minutes of the meeting for April 20, 1979.

Senator Ashworth moved that SB 442 be reported out of committee with a "do pass" recommendation.

Seconded by Senator Sloan.

Motion carried unanimously.

SB 480 Allows deed of trust in lieu of surety bond in certain circumstances.

For testimony on this measure, see the minutes of the meeting for April 23, 1979.

Senator Dodge stated that according to this, a person could have all their equity in their property tied up, as well as the bond amount, as far as a claim by a creditor was concerned.

Senator Raggio stated that this also allows for junior deeds of trust. He felt there would be a serious enforcement problem with this.

Senator Sloan moved to indefinitely postpone SB 480.

Seconded by Senator Hernstadt.

Motion carried unanimously.

AB 479 Provides injunctive relief in certain situations of domestic violence.

For testimony on this measure, see the minutes of the meeting for April 18, 1979.

Senator Close stated that he had a problem with "was residing." It could mean one hour, one day, one month.

Senator Sloan suggested requiring the affidavit to disclose how long the people have been living together and let the judge make the determination.

Senator Raggio stated that in a divorce proceeding, you can go into court and get a restraining order based on an ex parte allegation that there is a threat to do violence. He did not see any reason to make this different from that procedure. He felt that the affidavit should state that there has been a threat of physical violence.

It was the consensus of the committee to amend to include "imminent physical danger."

With regard to excluding one of the parties from the applicant's home, Senator Sloan suggested incorporating the normal rules for a temporary restraining order in a preliminary injunction, as it relates both to time and procedure for coming in to vacate.

Senator Raggio stated that he did not read "applicant's home" to necessarily mean that the applicant had to be the owner of the home. He felt this contemplated the situation where the applicant may not be the owner of the home. He felt that there was a policy decision to be made by the committee as to whether they wanted to exclude a person from their home. He stated that there was a further problem with the rental or co-tenant situation.

Senator Sloan suggested putting in the affidavit, how long the person lived there, that they had no other means of support, no money to go elsewhere, no other place to live, and let the court make the determination whether or not they are over-reaching.

Senator Close suggested requiring a hearing if you were going to exclude one of the parties from the home.

Judge Roy Torvinan replied that in some instances, particularly the violent cases, it is not always practical. You want to get the person out of the house immediately.

Senator Raggio asked Judge Torvinan how he felt about making the violation of a restraining order a misdemeanor.

Judge Torvinan replied that he could see an argument in favor of it in that people are prone to ignore restraining orders.

However, he felt there could be a problem in that there would be 2 different judicial bodies dealing with the same problem. There would be the one judge that is dealing with the restraining order and the relationship between the parties and then you would have one of the parties being hauled up before a justice of the peace or police judge.

Senator Raggio agreed that that was a good point.

No action was taken at this time.

AB 389 Provides penalty for stopping payment on a check under certain circumstances.

Assemblyman Alan Glover, District 40, testified in support of this measure. He stated that this is intended to close a loophole in the law which allows a person to purchase merchandise, leave the store and then put a stop payment on the check. The store's only recourse at this time is to instigate a civil action and there are no criminal charges involved.

Pete Kelly, Nevada Retail Association, testified in support of this measure. He concurred with Mr. Glover's remarks.

Senator Close stated that line 8 should be amended to reflect checks on which payment had been stopped.

Senator Raggio expressed concern over the legitimate cases where an individual wants to stop payment. He cited the example of receiving services at a garage; something which could not be returned.

Senator Close suggested adding that if a person does not or cannot return the merchandise, he be required to give a written explanation as to why the payment was stopped. He felt that would stop the prima facie evidence situation and show some good faith effort on the part of the person stopping payment to correct the situation.

The committee concurred in that amendment.

At this time, the committee requested that Frank Daykin, Legislative Counsel, discuss the measure with them.

Senator Close stated that the committee had some concern regarding the present public policy of Nevada in relation to the collection of gaming debts, and in particular, making this a criminal offense.

Mr. Daykin stated that the legislature has not ever declared a policy one way or the other. They have merely acquiesced in the policy declared by the courts. This statute, being drawn without exception, might be considered as a change but there is already a general statute on the issuance of bad checks, which is drawn without exception, and which has never been viewed by the court as affecting the civil collectibility of gaming checks.

Senator Sloan asked, if the underlying obligation is unenforceable, this is statute is now saying that where before you had no obligation to pay, non-payment is now an intent to defraud.

Mr. Daykin responded that you can make the issuance of a check, and then the stopping payment on it, rebuttable presumption of intent to defraud even though there was no legal obligation. The check, once drawn and delivered, circulates as a negotiable instrument. As a matter of policy, he believed that the legislature could, constitutionally, say that it is a crime to put these into circulation whereby innocent people may be hurt, as a holder in due course would be.

Senator Hernstadt asked about the situation where people are apartment hunting and give a deposit to a manager to hold an apartment. They find a better apartment and stop payment on the check. They then call the manager and tell him the situation. The manager says he could have rented the apartment and has now lost a week's worth of revenue. He has been damaged. He asked if that would be a prosecutable offense under this statute.

Mr. Daykin stated that he believed it would be.

Senator Raggio asked why. It was his understanding that prima facie evidence of intent to defraud only arose when there was a failure to return money or merchandise.

Mr. Daykin responded that if there is money or merchandise involved, if the person returns it, he clears himself. However, Mr. Daykin stated that he did not believe this statute would be inoperative if there were no money or merchandise.

Senator Raggio agreed but stated that at the time the check was written, using Senator Hernstadt's example, there was no intent to defraud. They simply found a better apartment.

Mr. Daykin stated that that was correct but that it was just one part of what the statute was aimed at.

Ray Early, Nevada Check and Credit Card Investigator, testified that his business is a central credit clearing house for the gaming industry. He informed the committee that during a 5 month period, there had been stop payments on \$303,707.10 worth of checks. He urged the committee's support of this measure.

Darryl Capuro, Executive Director of the Nevada Franchised Auto Dealer's Association, testified in support of this measure. He requested that services be included. He stated that he could not understand why they should be deleted.

Senator Dodge asked, if services were included, would he object to a provision whereby the person stopping payment could inform the payee as to the reason why.

Mr. Capuro replied that he would have no objection at all.

Larry Ketzenberger, Las Vegas Metropolitan Police Department, testified that their primary concern was that the police department would be used as an agent of intimidation to stop a person from utilizing his civil right of redress if he has been wronged.

No action was taken at this time.

AJR 6

Proposes to amend Nevada constitution to confer right upon private citizens to keep and bear arms.

Assemblyman Robert E. Robinson, District 8, testified in support of this measure. He stated that this was an attempt to bring Nevada into line with a number of other states.

Nevada is 1 out of 12 states that does not have a state constitutional provision for the right to bear arms.

Senator Hernstadt questioned the need for this as this right is covered under the United States Constitution and that is the controlling document of the country.

Mr. Robinson stated that this would prevent the passage of state laws which would prohibit the right to bear arms.

Senator Hernstadt stated that the way this is written, "every citizen" would have that right, regardless of whether they are a felon or not.

Senator Sloan asked what existing laws this would affect. He was concerned that it would preclude the requirement of uniform registration of handguns.

Mr. Robinson stated that he could not respond to that and suggested the committee talk with Frank Daykin, Legislative Counsel, on any technical questions.

Larry Ketzenberger, Las Vegas Metropolitan Police Department, testified that they would be opposed to this measure only if it would, in anyway, restrict the police's ability to register guns.

The following expressed their support for this measure:

Dean Analy, Field Representative for the Nevada Rifle Assoc.
Jerry Washabaugh, past President of the Nevada State Rifle and Pistol Assoc.

Warren Fowler, Nevada Wildlife Assoc.

Richard Biggs, President, Carson City Rifle and Pistol Club

Gordon Bradley, concerned citizen


Robert Dumas, concerned citizen

No action was taken at this time.

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There being no further business, the meeting was adjourned..

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman