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SENATE COMMITTEE ON JUDICIARY



WORK SESSION DOCUMENT FEBRUARY 13, 2003

EXHIBIT E Senate Committee on Judiciary

Date: 2/13/03 Page 1 of 8

WORK SESSION DOCUMENT

SENATE COMMITTEE ON JUDICIARY

FEBRUARY 13, 2003

The following measures may be considered for action during the work session:

- SENATE BILL 17 (BDR 15-586 was requested by Senator Wiener).

This bill provides a penalty for a person who leaves a child 7 years of age or younger unsupervised in a motor vehicle under certain circumstances.

Committee Action: The bill was heard in Committee on February 6, 2003, and the Committee voted to AMEND AND DO PASS (with Senator Washington opposed), with the amendatory language to be drafted and brought back to Committee for approval.

Proposed Amendments: Ben Graham, Nevada District Attorney's Association (NDAA), worked with the sponsor and presented an amendment to Section 4 of the bill. Committee Counsel has drafted the amendment and it is attached as TAB A.

*No affirmative action is required by the Committee. Rather, if in agreement on the language of the amendment, the bill will be reported out of Committee and transmitted to the Floor of the Senate.

- SENATE BILL 40 (BDR 15-887 was requested by the Senate Committee on Judiciary).

This bill prohibits the discharge of a firearm from structure, vehicle, vessel or aircraft under certain circumstances.

Committee Action: The bill was heard in Committee on February 7, 2003, and no action was taken.

Proponents/those testifying in support of the bill: Senator Amodei; Gayle Farley.

Opponents/neutral/those testifying with concerns on the bill: Robert Beach, Nevada Department of Agriculture, Wildlife Services; Stephanie Light, Nevada Wool Growers.

Discussion: Senator Amodei originally requested this bill at the request of a constituent, Gayle Farley. Ms. Farley testified that her daughter was murdered by someone who had a history of violent aggressions with weapons. This bill was requested to close a loophole in the current law to allow prosecution for shooting firearms in or out of structures.

Proposed Amendments: There are two proposed amendments. The first amendment submitted by Robert Beach, USDA's Wildlife Services, adds a new subsection 3(d). The proposed language would exempt the State Department of Agriculture, the State Board of Sheep Commissioners, or the USDA's Wildlife Services Program while conducting wildlife damage management activities. The proposed draft language is attached as **TAB B**.

The second amendment was proposed by Ben Graham, NDAA. The amendment reverts to the original language on page 1 line 5, and adds "or within" to page 1 line 7 and also to page 2 line 3. A bill showing the proposed amendment is attached as **TAB C**.

■ **SENATE BILL 26** (BDR 14-146 was requested by Senator Neal).

This bill establishes certain requirements relating to monitoring devices attached to the exterior of vehicles to track the movement or location of vehicles.

Committee Action: The bill was heard in Committee on February 7, 2003, and no action was taken.

Proponents/those testifying in support of the bill: Senator Neal; Lynn Chapman, Eagle Forum.

Opponents/those testifying against the bill: Ben Graham, NDAA; Stan Olsen, Las Vegas Metropolitan Police, Nevada Sheriff's and Chief's Association; Jim Nadeau, Washoe County Sheriff's Office; Ron Dreher, Peace Officers Research Association of Nevada.

Discussion: Senator Neal brought this bill in response to the Osburn v. State case and felt that there should be some type of accountability for placing a tracking device on one's motor vehicle. The opposition stated that there is a lesser

expectation of privacy in a car and that these "bird dog" devices are very useful to law enforcement.

Proposed Amendments: None.

■ **SENATE BILL 41** (BDR 14-110 was requested by Senator Rawson).

This bill revises provisions governing release and use of limited personal information to certain supervisors of personnel involved in security of resort hotels.

Committee Action: The bill was heard in Committee on February 7, 2003, and no action was taken.

Proponents/those testifying in support of the bill: Senator Rawson; Stan Olsen; Jim Nadeau.

Neutral: Alfredo Alonso, Nevada Resort Association—no position yet; Susie Carillo, Central Repository for Nevada Records of Criminal History.

Opponents/those testifying against the bill: None.

Discussion: Testimony indicated that resort hotels are a target for certain types of criminal activity, and that with the current state of heightened security, the resort hotels may need to access certain information on motor vehicles on their premises. Some concern was raised on the need for this type of information, why it only applied to resort hotels, and whether the information is accessible by the press.

Proposed Amendments: Susie Carillo, Central Repository, proposed amending the bill by adding "pursuant to Sections 3 and 6" to page 4 line 1 of the bill.

Amendment No. 1

Senate Amendment to Senate Bill No. 17	(BDR 15-586)
Proposed by: Committee on Judiciary	
Amendment Box:	
Resolves Conflicts with: N/A	
Amends:	Summary: No Title: No Preamble: No Joint Sponsorship: No

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____

Amend section 1, page 2, by deleting lines 9 through 11 and inserting:

"4. No person may be prosecuted under this section if the conduct would give rise to prosecution under any other provision of law."

KEL/BAW

Date: 2/12/2003

S.B. No. 17—Provides penalty for person who leaves child 7 years of age or younger unsupervised in motor vehicle under certain circumstances.

Proposed amendment to Senate Bill # 40:

3(d) Person(s) working for, or under the supervision of, the Nevada Department of Agriculture or the Nevada Sheep Commission per NRS 567, or the USDA's Wildlife Services Program under NRS 567.130, while conducting wildlife damage management activities.

*Submitted by
Robert Beach,
State Director,
USDA-APHIS Wildlife Services
and
Administrator
NV Department of Agriculture
Division of Resource Protection*

SUBMITTED BY
BEN GRAHAM

S.B. 40

SENATE BILL NO. 40—COMMITTEE ON JUDICIARY

PREFLIED JANUARY 30, 2003

Referred to Committee on Judiciary

SUMMARY—Prohibits discharge of firearm from structure, vehicle, vessel or aircraft under certain circumstances. (BDR 15-887)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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

AN ACT relating to firearms; prohibiting discharge of a firearm from a structure, vehicle, vessel or aircraft under certain circumstances; 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 202.287 is hereby amended to read as follows:
2 202.287 1. A person, [~~while in a motor vehicle,~~] whether
3 under the influence of liquor, a controlled substance or otherwise,
4 who *is in, on or under a structure, vehicle, vessel or aircraft and*
5 *who willfully and maliciously* [~~or wantonly~~] discharges or causes to
6 be discharged [~~out of the motor vehicle, any pistol, gun or any other~~
7 ~~kind of firearm;~~] *a firearm from the structure, vehicle, vessel or*
8 *aircraft;*
9 (a) If the [~~motor~~] *structure, vehicle, vessel or aircraft* is not
10 within an area designated by city or county ordinance as a populated
11 area for the purpose of prohibiting the discharge of weapons, is
12 guilty of a misdemeanor.
13 (b) If the [~~motor~~] *structure, vehicle, vessel or aircraft* is within
14 an area designated by city or county ordinance as a populated area
15 for the purpose of prohibiting the discharge of weapons, is guilty of
16 a category B felony and shall be punished by imprisonment in the
17 state prison for a minimum term of not less than 2 years and a



* S B 4 0 *

OR WITHIN

1 maximum term of not more than 15 years, or by a fine of not more
2 than \$5,000, or by both fine and imprisonment.

3 2. *If a firearm is discharged out of any vehicle, vessel or*
4 *aircraft that is in motion or at rest and it cannot with reasonable*
5 *certainty be ascertained in what county the crime was committed,*
6 *the offender may be arrested and tried in any county through*
7 *which the vehicle, vessel or aircraft may have run on the trip*
8 *during which the firearm was discharged.*

9 3. The provisions of this section do not apply to:

10 (a) A person who lawfully shoots at a game mammal or game
11 bird pursuant to subsection 2 of NRS 503.010. ~~[; or]~~

12 (b) A peace officer while engaged in the performance of his
13 official duties.

14 (c) A person who discharges a firearm in a lawful manner and
15 in the course of a lawful business, event or activity.

16 4. As used in this section:

17 (a) "Aircraft" means any airplane, glider, balloon or other
18 device used as a means of transportation through the air, whether
19 or not it is self-propelled.

20 (b) "Structure" means any temporary or permanent structure,
21 including, but not limited to, any tent, house, room, apartment,
22 tenement, shop, warehouse, store, mill, barn, stable, outhouse or
23 other building.

24 (c) "Vehicle" means any motor vehicle or trailer designed for
25 use with a motor vehicle, whether or not it is self-propelled,
26 operated on rails or propelled by electric power obtained from
27 overhead wires.

28 (d) "Vessel" means any ship, boat or other device used
29 as a means of transportation on water, whether or not it is
30 self-propelled.

