

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 04, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, Wintrow, and Ruchti

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:02 a.m.

WELCOME: **Chairman Guthrie** welcomed all to the Committee meeting.

NOTE: **Chairman Guthrie** stated that the agenda was modified to accommodate the schedules of the presenters.

MINUTES APPROVAL: **Senator Lee** moved to approve the Minutes of February 23, 2024. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

H 441 **UNIFORM CONTROLLED SUBSTANCES - Amends existing law to revise the definition of "drug paraphernalia" to exclude fentanyl testing strips.** **Representative Erickson** stated that **H 441** updated old code and provided that fentanyl detection strips were not considered drug paraphernalia. He remarked that Idaho was one of only 6 states that did not have the legislation. He stated that the test strips saved lives. He remarked that the strips were used to test prescription drugs and treatments to ensure they contained no fentanyl.

Representative Rubel stated that the strips were placed in any substance and indicated the presence of fentanyl. She recognized students from the University of Idaho and Boise State University who provided input to **H 441**. She stated that **H 441** changed a law that went into effect in 1980.

TESTIMONY: **Julianne Donnelly Tzul**, Advocacy Director, American Civil Liberties Union of Idaho, testified in support of **H 441**. She stated that substances could be hidden in lawful drugs. She remarked that fentanyl testing strips saved lives.

Ms. Tzul provided written testimony that is contained in Attachment 1.

MOTION: **Senator Lee** moved to send **H 441** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

H 575

DISCLOSING EXPLICIT SYNTHETIC MEDIA - Adds to existing law to provide for the crime of disclosing explicit synthetic media.

Representative Young remarked that as Artificial Intelligence (AI) had become more accessible, people generated and distributed synthetic images of others that had become explicit and pornographic. She stated that **H 575** made it a misdemeanor to disclose explicit synthetic media with the intent to annoy, terrify, threaten, intimidate, harass, offend, humiliate, or degrade. She stated that **H 575** established a criminal offense for disclosing without consent, disclosing with intent to harass or degrade, or possessing and threatening to disclose the images. She remarked that the first offense was a misdemeanor and not a felony because some of the offenders were minors. She stated that the second offense within a 5 year period was a felony. She stated that many lawyers had reviewed the legislation.

Representative Gannon stated that he cosponsored **H 575**. He remarked that the Federal Bureau of Investigation received complaints from victims including children and non-consenting adults. He remarked that photos and videos were altered and circulated on social media or pornographic websites for the purpose of harassment or extortion. He remarked that **H 575** applied to all Idahoans and that synthetic media was not free speech. He stated that the definitions were specific.

DISCUSSION: **Senator Winder** referenced line 20 and asked if **H 575** impacted free speech. He commented that some special interest groups used cartoons and other types of synthetic media. **Representative Young** replied that **H 575** targeted explicit sexual images. She remarked that **H 575** was drafted with cooperation from the Attorney General's office.

TESTIMONY: **Jonathan Wheatley**, Attorney, testified on behalf of himself in support of **H 575**. He stated that there was not a good mechanism for the police or attorneys to address these crimes in Idaho. He commented that synthetic images were generated with very little sophistication. He stated that Idaho Code § 18-6605 addressed images that people took themselves and sent to a person they trusted, who then circulated the images. He remarked that synthetic images were generated without the victim's knowledge or consent.

DISCUSSION: **Senator Winder** asked if the **H 575** was specific to sexually explicit material and did not infringe on free speech. **Mr. Wheatley** responded yes, the definitions were outlined clearly and focused on sexually explicit material.

Senator Wintrow referenced lines 20, 21, and 22. She asked if the language "disclosing the media with an intent" enabled a person to circumvent charges. **Mr. Wheatley** replied that the language helped to more easily prosecute individuals.

TESTIMONY: **Grace Howat**, Policy Assistant, Idaho Family Policy Center, stated that she supported **H 575**. She remarked that the proliferation of amateur pornography websites gave rise to revenge pornography. She stated that developing technology made this genre even more dangerous. She remarked that according to Sensity AI, 90 to 95 percent of all AI-created deep fake pornographic videos were created without consent. She stated that current laws did not address AI-generated deep fake pornography.

DISCUSSION: **Senator Ruchti** asked if the exemptions in subparagraph 5 allowed criminal and civil investigations to move forward so that the material was used in the proceedings without violating the law. **Representative Young** replied that yes, the exemptions clarified what did and did not apply.

MOTION: **Senator Toews** moved to send **H 575** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

H 588 **PUBLIC RECORDS - Amends existing law to provide certain deadlines for producing records pursuant to a public records request.** **Representative Galaviz** stated **H 588** differentiated deadlines to provide public records requests made to public agencies. She stated that the agency had up to 10 days from the time of the request to provide public records to an Idaho resident and 21 days to provide public records to a non-resident. She remarked that the Legislative Services Office (LSO) struggled to meet records request demands, especially during the Session, and **H 588** prioritized requests made by Idaho residents. **Representative Galaviz** shared a handout detailing the number of records requests per year and the timing of statutory changes to address the growing number (Attachment 2). She remarked that LSO could not predict the frequency or breadth of the requests. She stated that Idaho press groups were not limited by **H 588**.

DISCUSSION: **Senator Wintrow** asked how many LSO employees were dedicated to meeting public records requests. **Representative Galaviz** responded that 4 or 5 people met the standard demand. She remarked that as many as 12 to 13 were needed to meet higher demand. **Senator Wintrow** asked if **H 588** got in the way of investigative journalism. **Representative Galaviz** stated that **H 588** gave up to 21 days for out-to-state requests. She remarked that LSO did not purposefully delay responses. She stated that in-State requests were prioritized.

Senator Winder asked if a journalist was a resident of Idaho, but worked for the New York Times, would the records request be responded to in 10 days or 21 days. **Representative Galaviz** responded that if the requester had an Idaho address, then the response was 10 days.

TESTIMONY: **Sara Westbrook**, Idaho Association of Counties, stated that she supported **H 588**. She remarked that Idaho counties were also inundated with records requests. She stated that **H 588** benefitted county clerks and prosecutors.

Ken Burgess, Veritas Advisors, stated that he represented the Idaho Press Club and opposed **H 588**. He remarked that he agreed with the intent of **H 588**, but he was concerned about the unintended consequences. He stated that he was concerned about the timeliness of information. He remarked employees often worked for an Idaho paper, but lived out of State. He commented that **H 588** applied to all public agencies, and not just LSO.

Written testimony in opposition to **H 588** from the Consumer Data Industry Association appears in Attachment 3.

Written testimony in opposition to **H 588** from the Coalition for Sensible Public Records Access appears in Attachment 4.

Written testimony in opposition to **H 588** from TechNet Northwest appears in Attachment 5.

DISCUSSION:

Chairman Guthrie stated that if the press organization was in Idaho, but the employee lived outside the State, the employee could have an in-State person make the request. He remarked that was not a big hurdle. **Mr. Burgess** responded that yes, that was true. He stated that he was concerned with the unintended consequences.

Senator Ruchti asked if an out-of-State reporter could contact an Idaho resident to place the records request. **Mr. Burgess** stated that they could.

Senator Wintrow remarked that she was concerned about investigative journalism. She asked if the additional 11 days were a barrier. **Mr. Burgess** responded that the Idaho Press Club looked askance at any limitation on the press. He stated that he was concerned about timeliness.

Chairman Guthrie remarked that a public records request was only one aspect of investigative journalism. **Mr. Burgess** stated that he agreed.

Representative Galaviz stated that up to an additional 11 days did not hamper investigative journalism attempts, but the impact of **H 588** on the LSO and other public agencies was significant.

Senator Bernt asked if the public records request workload could be addressed by hiring more FTEs. He commented that was a reasonable response.

MOTION:

Senator Bernt moved to send **H 588** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairman Guthrie passed the gavel to Vice Chairman Bernt.

S 1381

LIQUOR - Adds to existing law to establish provisions regarding licenses issued to resort city restaurants. **Senator Guthrie** stated that **S 1381** addressed the needs of resort cities due to the influx of tourism and recreation. He remarked that **S 1381** created a new type of liquor license, the resort city liquor license, that was subject to local control. He stated that there were up to 3 additional liquor licenses for restaurants in resort cities. He remarked that 60 percent of a restaurant's revenue was from food, and liquor was only sold during the hours food was served. He stated that the local licensing authority could oppose different restrictions.

Blake Youde, Resort Cities Coalition (Coalition), stated that the Coalition consisted of 21 Idaho cities. He remarked that **S 1381** created a new resort cities liquor license that was based on a Wyoming statute. He stated that small towns had limited liquor licenses due to their smaller populations, but the high volume of tourism created demand and opportunity for the local businesses. He remarked that resort cities were cities with a population of 10,000 or smaller, and they derived the major portion of economic wellbeing from businesses catering to recreational needs. He remarked that a restaurant was defined in the language of **S 1381**. He stated that the cities controlled the licenses.

TESTIMONY:

Melvin Dick, stated that he was representing himself and testified in opposition to **S 1381**. **Mr. Dick** remarked that not all resort cities had the same needs regarding their liquor licenses. He stated that as of 2024, Sandpoint had 11,000 people and a total of 14 liquor licenses. He remarked that the city of Pend Oreille, which was 3 miles away, had 3 licenses plus a golf club. He asked the Committee to consider that if a resort city already exceeded its allotment, no more licenses would be issued until its population grew to meet the quota restrictions.

August Christensen, Mayor, Driggs, Idaho, stated that she supported **S 1381**. She remarked that Driggs leaders had been working on liquor licenses for nearly 15 years. She remarked that Driggs had a population of 2,000 people, so there were only 2 liquor licenses available. She stated that Driggs was a resort town. She stated that Driggs wanted restaurants that could serve liquor, and she outlined the details of **S 1381**.

Christina Giordani, Council President, City of Bellevue, stated that she supported **S 1381**. She remarked that resort cities were unique due to population fluctuations, and that applying fixed liquor license quotas was impractical. She stated that a resort city liquor license contributed to the financial stability and customer appeal of resort city restaurants. She remarked that **S 1381** empowered the local community and ensured that local businesses continued to thrive.

Brody Aston, Lobbyist, Westerberg and Aston, testified in support of **S 1381** on behalf of Mike and Jane Flynn of Bellevue, Idaho. He remarked that business owners were not asking for a subsidy, rather they wanted to run their businesses as they saw fit and serve their communities. He stated that **S 1381** allowed for local options and control.

Jeremy Pisca, Attorney and Executive Director, Idaho Beer and Wine Distributors Association, recommended that **S 1381** be sent to the amending order. He remarked that Idaho had 23 cities with a population of over 10,000 people, while there were over 200 cities with populations of 10,000 people or less. He stated that a resort city received a majority of its economic well being from business catering to recreation and tourism. These cities had the ability to pass a local option tax. He recommended that the language "and shall only include those resort cities that have implemented a city local option non-property tax" be added to line 17. He remarked that this change limited **S 1381** to the 21 cities that have passed a local option tax to deal with their influx of population.

Written testimony provided by Melvin Dick appears in Attachment 6.

DISCUSSION:

Senator Ruchti asked if the language addition Mr. Pisca suggested resulted in **S 1381** addressing true resort cities. **Mr. Pisca** replied that true resort cities were those that had passed a local option tax. He stated that he feared a massive expansion of liquor licenses.

Senator Winder asked for clarification regarding the Wood River Valley. He asked if the cities in the valley, including Bellevue, were considered resort cities per the definition in **S 1381**. **Mr. Pisca** stated that they were included. He listed the 21 cities that were considered resort cities.

TESTIMONY: **Ryan Haworth**, business owner, Driggs, Idaho, stated that he supported **S 1381**. He remarked that **S 1381** gave power to the communities. He stated that **S 1381** addressed the important points.

Kelly Packer, Executive Director, Association of Idaho Cities, testified in support of **S 1381**. She stated that there were 26 cities with a population over 10,000, while 152 cities had populations below 1,000. She remarked that of those smaller cities, most had no restaurants and would not be impacted by **S 1381**. She stated that the 21 resort cities needed **S 1381**.

Brian Barsotti, Attorney and Entrepreneur, stated that he was from Ketchum. He remarked that he was an attorney and also a business owner. He stated that Ketchum experienced an extreme housing and staffing shortage. He remarked that restaurants that sold liquor had more revenue and more viable business. He stated that restaurants that sold liquor had an advantage because of the additional revenue.

DISCUSSION: **Mr. Youde** addressed Mr. Pisca's recommendation to send **S 1381** to the amending order. He remarked that language requiring a local option tax was not included in the legislation because this was not viewed as a tax increase. He stated that the resort cities provisional law was a self-regulating statute.

Senator Lee asked if additional liquor licenses incentivized cities to become resort cities. **Mr. Youde** replied that the market took care of itself. He remarked that a city must sustain a restaurant and generate 60 percent of revenue from food before **S 1381** applied.

Senator Guthrie stated that he served on county commissions, and **S 1381** was about local control. Mayors and city council members must justify their decisions. He stated that additional licenses were economic drivers that served local constituents. He remarked that the increased tourism drove the demand for additional licenses. He stated that the language in **S 1381** defined a resort city. He remarked that revenues generated by additional licenses helped resort cities accommodate the influx of tourism.

MOTION: **Senator Harris** moved to send **S 1381** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Bernt passed the gavel back to the Chairman.

RS 31572 **Relating to Liens of Mechanics and Materialmen.** **Senator Anthon** stated that **RS 31572** clarified who was entitled to a right to lien under Idaho Code 45-501. He remarked that **RS 31572** created consistency in Idaho code.

MOTION: **Senator Bernt** moved to send **RS 31572** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:18 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary