

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 30, 2013

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Vick, Senators Davis, Mortimer, Nuxoll, Hagedorn, Lakey, Bock and Werk

ABSENT/ EXCUSED:

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 Lodge** called the meeting to order at 1:32 p.m. and asked the secretary to call the roll.

MINUTES: **Vice Chairman Vick** made a motion to approve the minutes of January 21, 2013 as written. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RULES REVIEW: **Chairman Lodge** turned the meeting over to Vice Chairman Vick to present the pending rule review for the Idaho State Police. **Vice Chairman Vick** introduced Lieutenant Clements to explain the rule.

DOCKET NO. 11-0501-1101 **Rules Governing Alcohol Beverage Control - Lieutenant Bob Clements**, Idaho State Police, explained this rule was proposed to define a multipurpose arena and provides specific circumstances when minors are permitted or prohibited, considering modern business concepts and the specific types of establishments. This rule also protects public safety by restricting minors from primarily drinking establishments, regulating "over/under" clubs. He said over the years, they have had severe problems in the places called over/under clubs. These rules were established for guidelines to follow, listing definitions of a multipurpose arena, and an adequate security plan that must be documented with local law enforcement approval. There are requirements for basic food information; part of the security plan would be how they are going to keep alcohol away from minors. In the past there were attempts to separate minors in the same establishment where adults were drinking, but that also attracted gang activity.

Vice Chairman Vick asked Lieutenant Clements to refresh his memory of what they did last year when this rule was reviewed. **Lieutenant Clements** said it was held for one year to see if there were more comments on the concern of reporting requirements. **Senator Davis** clarified that there was no difference between last year's rule and this year. **Lieutenant Clements** said that was correct. **Senator Davis** didn't understand the purpose of "holding for a year." **Lieutenant Clements** said they maintained their position as a temporary rule while getting more comments, and if necessary, to consider new changes. They had no complaints or requests for changes. There was concern from Senator Davis that it didn't appear to be a temporary rule. Dennis Stevenson, Administrative Rules Coordinator, was asked to explain this to the committee. **Mr. Stevenson** said it was currently in force as a temporary rule and this year it was proposed as a pending rule.

A discussion ensued regarding the foods required, the endorsement and type of facility by the director, and the distinction of rodeo grounds or the cultural center. **Senator Lakey** asked what the concern was last year. **Lieutenant Clements** said the biggest concern was the reporting requirements and the time of events on a monthly basis; some felt it was burdensome. He had complaints from people that had gotten endorsements and he said depending on the type of event, it does raise different public safety concerns. **Senator Davis** checked the minutes of last year and saw there was concern, but a motion was made and it did pass by a voice vote in this committee. He also looked at the minutes of last year on the House side and they had three or four different meetings including a subcommittee meeting and while they had similar concerns, the rule was also approved. He questioned Mr. Stevenson as to why, if this was the same rule as last year, it must be heard and voted on again. **Mr. Stevenson** explained that the temporary rule cannot be made final. These are two separate rule making actions and because the way the law is written the temporary rule would expire. The agency brought it back to this body as a pending rule to make it permanent.

MOTION: **Senator Hagedorn** made a motion to approve **Docket No. 11-0501-1101**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. **Senators Werk** and **Bock** are recorded as voting **no**.

Vice Chairman Vick turned the meeting back over to Chairman Lodge to continue the meeting.

RS 21735 **Relating to Driver's Licenses - Senator Bart Davis** explained that he became aware of a case where a drivers license was suspended although someone else in the household had driven the car and got a parking ticket. The parking ticket was unpaid and the owner's drivers license was suspended by the city. No notice was given. This bill places due process sideboards on the suspension of a persons drivers license. It requires proof of due process compliance and restricts suspension to in-state infractions. The senators wanted to make sure that with this bill, the violation is with the driver, not the vehicle. **Senator Davis** also said that senior management of the city did rectify the situation in the case he cited.

MOTION: **Senator Mortimer** made a motion to send **RS 21735** to print. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

S 1016 **Relating to Producer Licensing - Michael Henderson**, Legal Counsel for the Courts, explained that this is one of the defect bills recommended by the Supreme Court. It removes a subsection that deals with bail agents. It is no longer true that a bail agent's license filed with the clerk of the district court is deemed proof that such bail agent is licensed. Checking the Department of Insurance website will always provide current, accurate information on the agent's status. This bill would repeal the obsolete provision.

MOTION: **Senator Nuxoll** made a motion to send **S 1016** to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

S 1017 **Relating to Proceedings in Magistrate's Division - Michael Henderson** explained the next defect bill. He said Idaho Code §§ 19-3939 through 19-3944 concern the procedure to be followed when a misdemeanor conviction is appealed from the magistrate division to the district court. These statutes are now obsolete and in conflict with the provisions of the Idaho Criminal Rules governing such appeals. This bill would repeal these outdated statutes, which will help to avoid confusion as to the proper procedure to be followed in these appeals.

MOTION: **Senator Mortimer** moved to send **S 1017** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

S 1018

Relating to Jury Selection and Service - Mr. Henderson explained this defect actually does two things; (1) it corrects an erroneous reference to a subsection within Idaho Code § 2-208, a statute that addresses the procedure for summoning prospective jurors, and (2) the language regarding the circumstances in which a prospective juror may be found in contempt of court for failing to report and the penalty provided for such contempt is in conflict with the language in Idaho Code §§ 7-601 and 7-610, the statutes defining what constitutes contempt and establishing the punishment for that offense. This bill would remove that conflict by amending Idaho Code § 2-208(5) to state that prospective jurors who fail to appear may be subject to contempt proceedings as provided in chapter 6, title 7 of the Idaho Code and in applicable Supreme Court rules.

MOTION:

Senator Bock moved to send **S 1018** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

ADJOURNED

There being no further business, **Chairman Lodge** adjourned the meeting at 2:20 p.m.

Senator Lodge
Chairman

Leigh Hinds
Secretary