

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, March 13, 2013

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

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

**ABSENT/ EXCUSED:** Senators Nuxoll and Hagedorn

**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 1:35 p.m. and asked the secretary to call the roll.

**S 1136** **Relating to Uniform Controlled Substance - Elisha Figueroa**, Idaho Office of Drug Policy, explained this legislation would update Idaho Schedule 1 regulations regarding synthetic cannabinoids, commonly referred to as Spice. These synthetics are reported to be powerful psychedelic drugs which can cause one to experience an intense high with symptoms of nausea, agitation, hallucinations, elevated blood pressure and heart rate, seizures, and loss of consciousness. In 2010, Idaho witnessed an explosion of this synthetic drug and in 2011, the legislation passed which allowed law enforcement to control the proliferation of these drugs in Idaho. However, these drugs take on varied chemical structures, which the manufacturers exploit by altering the chemical structure to skirt the current law. The Idaho State Police Forensic Lab tracks submissions of synthetic drugs to the laboratory and continually review emerging drugs and recommend explicit statute wording. Therefore, it is necessary to update Idaho's control substance statute to address these new structures. This proposed legislation would make permanent the changes recommended by the Idaho Board of Pharmacy and signed by Governor Otter on September 4, 2012 which include a newly identified cannabinoid. This proposed legislation also adds explicit wording for an additional synthetic cannabinoid drug which the laboratory has been tracking since the September update. The Board of Pharmacy and the Idaho Sheriffs Association support this legislation. Due to the dangerous nature of these substances an emergency threat to the public exists, they are asking this act be in full effect upon passage and approval.

**Senator Werk** asked if any of these synthetic drugs have a medical usage. **Ms. Figueroa** said there was no medical usage. She introduced the chemist from the Idaho State Police (ISP) Forensic Services, **Corinna Owsley**. **Ms. Owsley** said she worked in the drug chemistry section and had been analyzing these synthetic drugs for approximately three years. In answer to Senator Werk's question, she said these drugs do not have any medical use, but there are provisions in the law if a substance becomes approved for medical use, it would not be banned.

**MOTION:** **Senator Lakey** moved to send **S 1136** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

**H 102**

**Relating to the Idaho State Police (ISP) - Matthew Gamette**, Quality Assurance Manager, explained that ISP Forensic Service exists to provide forensic science casework support to all local, state, and other law enforcement in Idaho. This legislation is to prevent a private defense attorney from hiring a private forensic expert and then requesting the use of equipment, supplies, or resources of the state lab, all of which are funded by taxpayer funds, to perform their examination of the evidence. He said this scenario is problematic for the state lab for three reasons:

1. The use of state funded equipment for a private business is a misuse of state resources. ISP does not have a mechanism to charge for the use of equipment, nor is it in the scope of their existence as a state agency.
2. The laboratory accreditation process requires the lab to train and certify any individual using laboratory equipment and instrumentation.
3. There are security and productivity concerns when private experts are in the laboratory. All activity must cease due to security and contamination concerns. State employees must be assigned to accompany these private examiners at all times which wastes state resources and builds backlogs.

**Mr. Gamette** stated that ISP does not have the statutory obligation or the resources to provide a private expert testing facility and denial of these requests should be explicit in the statute.

**MOTION:**

**Senator Mortimer** moved to send **H 102** to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

**S 1060**

**Relating to Prostitution - Sara Thomas**, State Appellate Public Defender, representing Idaho Criminal Justice Commission (ICJC), explained that a subcommittee of ICJC learned more on the human trafficking problem in Idaho which this legislation addresses. **Ms. Thomas** cited some instances where young girls were recruited to Los Angeles by a gentleman that intended to sell them. She said there were recruitment efforts going on at the Boise Town Square Mall where adult men were trying to recruit teenage girls into prostitution and stripping. She said the subcommittee learned that gangs were running girls from California through Oregon and Washington into Idaho and then into Nevada. This committee looked at the options for protection of Idahoans, and they found a gap in Idaho law. She explained if the girl is 16 or 17 years old and the man involved is less than three or five years older than her, it may not be a crime for him to purchase her for sexual purposes, that is as long as he doesn't pay in cash. Instead, he may buy her food, water or provide her with a place to stay. In other words, if anything is exchanged of value, that includes both tangible and intangible items, for sexual contact or sexual conduct, that is a felony. It is also a registrable offense. Finally, they have asked for criminal forfeiture in these circumstances. Any proceeds, profits, or anything that facilitates the crime must be forfeited to the state.

There was a brief discussion about the age differential and also the exchange of value. **Ms. Thomas** said there were decisions that would be made from the jury, prosecution, and judge. **Senator Werk** said he thought they may be wandering into uncharted territory since there had not been an exchange of anything of value associated with criminal activity in the past. He assumed this would be the case for the legislature as well as prosecutors and judges. **Ms. Thomas** said that was true for Idaho. She said this language had been used in the federal courts.

**TESTIMONY:**

**Christine Tibbens**, public policy coordinator for Catholic Charities of Idaho, stood in support of the bill. She said human trafficking violates the inherent dignity of the human person so consequently they support global, federal, and state policies that seek to address these injustices and punish those who benefit economically from them.

**MOTION:** **Senator Bock** moved to send **S 1060** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

**S 1123** **Relating to Prostitution; to provide for property for forfeiture - Sara Thomas** explained this was a follow-up bill to S 1060, which lays out the policies and procedures as well as third party protection during the forfeiture proceeding that would be applied to those who were recruiting girls or minors into prostitution. She said these statutes lay out a process to ensure that the property is inventoried and notice is given to any third party so they can prevent forfeiture of their own portion of that property. It also defines what happens to the money that comes from the sell of that property. It would first go to pay for forfeiture proceedings including the investigation that led to the property; the remainder of the money would go to the Victims Compensation Fund. It also allows the prosecutors and the attorney general to negotiate these forfeiture cases, both with the defendant as well as any third party owners. **Ms. Thomas** stated that before any order can be issued during this forfeiture proceeding, the judge has to make a finding that the property or a portion of it was used for the illegal purpose.

**Vice Chairman Vick** asked if another model was being followed since this language was new. **Ms. Thomas** said this language was identical to the drug forfeiture with the exception of internal references to the statutes and where the money goes in the end.

**Senator Lakey** noted the portionality issue again for the record. It may not be possible to divide a piece of real property. **Ms. Thomas** said she had researched the issue of whether real property was commingled. It is not considered commingled so they would be forfeiting the entire piece of property. She added that didn't mean the entire value would go to the state; maybe a portion would go to the state and a portion would go back to the defendant.

**MOTION:** **Senator Werk** moved to send **S 1123** to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman Lodge** adjourned the meeting at 2:10 p.m.

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Senator Lodge  
Chairman

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Leigh Hinds  
Secretary