

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, March 11, 2020

**TIME:** 2:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Martin, Vice Chair Souza, Senators Heider, Lee, Harris, Burtenshaw, Bayer, Jordan, and Nelson

**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 Martin** called to order the meeting of the Senate Health and Welfare Committee (Committee) at 2:00 p.m.

**Chairman Martin** asked Committee Page Lila Pulver to go to the podium, before the Committee moved to the business on the agenda, as the Committee wanted to thank her for her help during the second half of this legislative session. **Ms. Pulver** expressed her thanks for an amazing experience and said she looked forward to some road trips with friends this summer, a graduation trip with her parents, and attendance at Point Loma Nazarene University to study International Development in the fall. **Chairman Martin** thanked her for her help and wished her well in her studies at Point Loma.

**H 497AA** **Senator Harris** presented **H 497aa**, relating to the Yellow Dot Motor Vehicle Medical Information Act. He stated that this bill would help emergency responders identify persons in need of medical help and provide prompt care in the event of an accident. He said the program would be housed in the Department of Health and Welfare, Emergency Medical Services Bureau.

**Senator Harris** described how the program would work: citizens who choose to participate fill out a medical form with their photo ID which is kept in the glove compartment of their vehicle and a yellow dot sticker is placed in the back window of their car. If they get in an accident and an emergency responder sees the yellow dot on the window, the emergency responder is authorized to look in the glove compartment for the medical information. **Senator Harris** noted two important points: this holds responders harmless for information they learned from the medical form, and it ensures that law enforcement can't use the yellow dot for a probable cause to stop vehicles. **Senator Harris** requested approval for **H 497aa**.

**DISCUSSION:** **Senator Bayer** and **Senator Harris** discussed the reason for the House amendment; it was to prevent law enforcement from using the yellow dot as probable cause to stop a motor vehicle.

In response to Vice Chair Souza, **Senator Harris** discussed funding, including as outlined in Idaho Code § 39-4704(2) and with federal highway safety funds.

In response to Senator Jordan, **Senator Harris** explained that if the first responder doesn't see a yellow dot, he continues as if there were none. But if he does see a yellow dot, he will know to look in the glove compartment of the

vehicle for medical information.

**Senator Lee** relayed that she had asked some of her local law enforcement about the helpfulness of the yellow dot in the case of a crash. She related that first responders change the way they approach a vehicle if there is a yellow dot in the window. For example, what might appear to be a drunk driver may turn out to be a diabetic who is having an insulin issue. It gives an awareness to law enforcement that the driver may have a medical condition rather than being noncompliant.

**Senator Nelson** asked about issues with mistaken identity, and **Senator Harris** explained that was the reason for a photo ID on the medical form in the yellow dot medical packet kept in the vehicle.

**MOTION:**

**Senator Heider** moved to send **H 497aa** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**. Senator Harris will carry the bill on the floor.

**H 538**

**Erin Bennett**, government relations director for the American Heart Association and American Stroke Association in Idaho, presented **H 538**. She said **H 538** seeks to bring parity to tobacco products and electronic smoking devices. She stated that currently, electronic smoking device retailers are not held to the same requirements as tobacco retailers, and there isn't a way to ensure the electronic smoking device retailers are not selling to minors in Idaho. This bill doesn't change the way the current system works, but it includes those electronic smoking devices in the definition and in the permitting process. This bill applies the same standards that are put on current traditional tobacco products, to the electronic smoking devices. **Ms. Bennett** requested the Committee send **H 538** to the floor with a do pass recommendation.

**DISCUSSION:**

**Vice Chair Souza** and **Ms. Bennett** discussed the problem of not knowing how many vaping shops there were in Idaho and if this bill would help resolve that issue. **Ms. Bennett** explained that **H 538** would help the state learn how many vaping shops were in Idaho through the permitting process. **Vice Chair Souza** thanked Ms. Bennett for bringing this bill and commented on the cultural change facing the youth.

**Senator Harris** asked who would regulate the sale of electronic smoking devices and if local ordinances would be affected. **Ms. Bennet** replied that currently, the State, through the Department of Health and Welfare, regulates the permitting process under the Tobacco Project. That would not change, and local ordinances would not be affected.

**Senator Heider** asked about controlling the issue of shipping to minors from internet orders and the types of civil and criminal penalties. **Ms. Bennett** explained third party identification and background checks included for age and identity and federal oversight and guidelines. She said the language is being changed to include electronic smoking devices; the penalties aren't being changed.

**Senator Burtenshaw** and **Ms. Bennett** discussed the definitions of tobacco and nicotine seeking to ensure both are included in this bill. **Ms. Bennett** stated there's no restriction on how much or how little nicotine, and there are no real labeling requirements on those products, and it varies by brand and different type of device that's being used. She directed the Committee to page 3, line 32, which included the language, "tobacco or nicotine intended for human consumption," in an effort to capture both products.

**TESTIMONY:** **Corey Surber**, Director of Advocacy for the Saint Alphonsus Health system, testified in support of **H 538** and on behalf of a broad coalition which included the American Heart Association, American Lung Association, United Way, St. Alphonsus, St. Luke's, Idaho Oral Health Alliance, Idaho State Dental Association, Idaho Society for Clinical Oncology, Boise State University, and Tobacco Free Idaho Alliance. She referred to Dr. Bonnie Halpern-Felsher's presentation on vaping (February 4, 2020) and the harmful effects of vaping, including the rewiring and changing of the brain if introduced before age 18. Most adults who use vaping to quit cigarettes actually end up switching, not quitting. Youth statistics show a decline in cigarette smoking but a drastic increase in vaping. She urged support of **H 538**.

**DISCUSSION:** **Ms. Bennett** concluded her remarks saying that online retailers run a background check on the person ordering. This has forced the State permit process. She explained the bill doesn't touch local ordinances and doesn't seek to prevent local ordinances from being enforced. Only three cities in Idaho have smoke-free ordinances, and only Boise has already incorporated electronic smoking devices into that particular ordinance.

**TESTIMONY:** **Pam Eaton**, President and CEO of the Idaho Retailers Association (IRA), spoke in support of this bill and parity. She said there was a missing part of the parity issue, and that was the uniformity in laws. She clarified that the IRA would support this law with an amendment to require State regulation to ensure all retailers across Idaho operate under uniform laws. For example, it's important that stores in Meridian will have the same rules as stores in a different community.

**DISCUSSION:** **Senator Jordan** asked about finding parity between tobacco sales and vaping laws. **Ms. Eaton** said the amendment doesn't affect the Clean Air Act or planning and zoning. It does affect the regulations, taxing, permitting, and other basic regulations of how tobacco is sold in the retail market. She stated they were trying to keep laws even across the board.

**MOTION:** **Senator Harris** moved to send **H 538** to 14th Order of Business for possible amendment. **Vice Chair Souza** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Nelson** moved to send **H 538** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion.

**DISCUSSION:** **Senator Lee** would like to revisit this in a year. She said she was appreciative of the intentions but was concerned with parity and consideration of the master tobacco settlement program.

**Senator Nelson** spoke to his substitute motion and his belief that the language in **H 538** is adequate.

**Senator Jordan** spoke to the substitute motion in agreement with Senator Lee.

**ROLL CALL VOTE:** **Chairman Martin** called for a roll call vote on the substitute motion. **Senators Heider, Lee, Burtenshaw, Jordan, Nelson**, and **Chairman Martin** voted aye. **Senators Harris, Bayer**, and **Vice Chair Souza** voted nay. The motion carried. Senator Lee will sponsor the bill on the floor.

**H 578**

**Senator Den Hartog** presented **H 578**, relating to health. This bill is also known as Simon's Law. She said the bill does not try to solve a problem but tries to prevent a problem from occurring in Idaho. Under existing Idaho law, Idaho physicians, following a hospital futility policy, can place a do-not-resuscitate (DNR) order in a child's file and withhold lifesaving, life-sustaining treatment, hydration, and nutrition, without informing the child's parent(s). She explained that this legislation seeks to require parental notification rather than parental consent. A parent would have 48 hours to request transfer to another facility. The family would then have 15 days to complete the transfer. She stated there are a handful of other states that have passed similar legislation and that 17 other states require parental consent of the DNR order, not just notification. **Senator Den Hartog** concluded that this bill strikes a balance between parental involvement and physician's best practice.

**TESTIMONY:**

Those testifying in favor of **H 578** included: Dr. Tim Johans, a local neurological surgeon specializing in spine and brain surgery; Blaine Conzatti, Director of Family Alliance of Idaho; Christian Welp, representing the Catholic Church in Idaho; Lindsey Zea, reading a letter from Scott Showalter, General Pediatrician, who couldn't attend today; Jackie Wakefield, legislative assistant for Right to Life, Idaho, on behalf of Carey Willincott; Sandi Enzminger; and Esther Enzminger on behalf of Mrs. Kristen Bolton of Boise.

Those testifying in opposition to **H 578** included: Whitney Price, licensed clinical social worker, working with children's palliative care, reading a letter from Dr. Zach Erickson, palliative care physician; and Bob Aldrich, attorney, who asked the Committee to hold the bill because of the language, "against medical advice," which stops payments by insurance companies.

**Senator Den Hartog** concluded her presentation citing Idaho Code § 39-4506, which outlines the process for consent but doesn't see it as creating conflict.

**DISCUSSION:**

**Senator Jordan** referred to page 2 of the bill, lines 12-16 and asked for the definition of "diligent efforts." **Senator Den Hartog** responded that a reasonable person standard would probably suffice, but she is not an attorney. **Blaine Conzatti**, Director of Family Alliance of Idaho, answered the question on "diligent efforts" by explaining that those words are defined by the community standard around them.

**MOTION:**

**Senator Bayer** moved to send **H 578** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion.

**DISCUSSION:**

**Senator Jordan** stated the bill needed a little more work and that she was concerned about unintended consequences.

**Chairman Martin** commented that everyone wants the same outcome, and no one takes this difficult decision lightly.

**ROLL CALL VOTE:**

**Chairman Martin** called for a roll call vote. **Senators Heider, Lee, Burtenshaw,** and **Bayer** voted aye. **Senators Jordan, Nelson,** and **Chairman Martin** voted nay. The motion carried.

**MINUTES APPROVAL:**

**Senator Bayer** moved to approve the Minutes of February 12, 2020. **Senator Nelson** seconded the motion. The motion carried by **voice vote**.

**Senator Nelson** moved to approve the Minutes of February 24, 2020. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business at this time, **Chairman Martin** adjourned the meeting at 3:52 p.m.

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Senator Martin  
Chair

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Margo Miller  
Secretary