

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 17, 2021

TIME: 9:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Crane, Vice Chairman Armstrong, Representatives Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug (Andrew), Gannon, Mathias

**ABSENT/
EXCUSED:** None

GUESTS: Steven Keyser - Self, Phil McGrane - Ada County Clerk, Kelli Brassfield -Idaho Association of Cities, Russell Westerberg - ILBA

Chairman Crane called the meeting to order at 9:00 a.m.

S 1047: **Rep. Furniss** presented **S 1047**, a bill to clarify an ambiguity in the law relating to waterfront resort liquor licenses. In 2004 Café Sabor at Mack's Inn was issued a liquor license from Alcohol Beverage Control (ABC) and Idaho State Police and has been in compliance since then.

Café Sabor was said to be out of compliance because of water flow in the river being below a certain level, and the owner of Café Sabor at Mack's Inn, **Justin Hamilton** was required to remit his liquor license to ABC. The state issues a liquor license in good faith and Mr. Hamilton has always been in compliance. The river flow was not clearly defined in the original legislation.

ABC suggested legislation be brought forward to correct the issue and preserve **Mr. Hamilton's** \$6 million investment in Café Sabor at Mack's Inn and the new Springhill Suites at the Island Park area resort. Idaho State Police attorneys helped draft the bill which would allow existing riverfront properties the right to keep their licenses if they had a license previously. **Rep. Furniss** declared Rule 80, as a customer.

MOTION: **Rep. Hanks** made a motion to send **S 1047** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Furniss** will sponsor the bill on the floor.

MOTION: **Rep. Barbieri** made a motion to **Hold H 321** in committee, subject to the call of the chair. **Motion carried by voice vote.**

H 258: **Rep. Addis** presented **H 258**. This bill ensures a Waterfront Resort Liquor License is not denied solely because a public right-of-way runs between the real property the restaurant is located upon, and the real property containing the required water frontage.

This legislation clarifies existing code, which is very narrow. Many regulations must be met to receive this particular liquor license. Waterfront resort with the Button Hook restaurant was sold in 2017. The existing liquor license was but it was denied transfer because a public right of way ran through the property and it created two existing parcels. The new owner was deeded ownership of Lakeside Avenue by the highway district in order to satisfy the ruling. The ABC still denied the license transfer. After four years of litigation, the judge ruled in favor of the restaurant owner.

In response to questions, **Rep. Addis** clarified this legislation is strictly about a right away running through someone's property.

MOTION: **Rep. Scott** made a motion to send **H 258** to the floor with a **DO PASS** recommendation.

During discussion it was noted that anytime the legislature does a carve-out, there are winners and losers. There needs to be a deeper dive into this issue. One committee member has seen a trend in ABC trying to close businesses in her district. It was agreed that there are issues with liquor licenses that need to be addressed.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Addis** will sponsor the bill on the floor.

S 1136aa: **Sen. Anthon** presented **S 1136**. This legislation is a revision to Title 46, Chapter 6 Idaho Code clarifying and limiting the powers of the governor during episodes of extreme emergency. It provides limitations on the amount of time a governor may maintain a declaration of extreme peril without concurrence by the legislature, protects Idaho workers as essential, reaffirms the legislature's authority to end emergency declarations and/or emergency regulations, prevents the suspension of the right to peaceable assemble and free exercise of religion, protects Idahoans' right to bear arms during emergencies, and prohibits a governor from unilaterally altering or suspending Idaho Code.

Title 46-601 was drafted in the 1920s and altered in the 1950s. It is titled Martial Law and Active Duty. It ensures the people and government of Idaho deal with the most dire emergencies the state could experience, including enemy attacks, explosions or violent insurrections.

Sen. Anthon said this bill does not deal with natural disasters. This is for when the local civil government/state is totally overwhelmed and cannot function. Currently, it gives the Governor extreme power to declare martial law, activate the national guard, call up militias and provide a military run government, as necessary.

This bill has great clarity. It provides legislative intent for the lightest hand of government to be employed now or in the future. All workers would be essential and the Legislature would appropriate funds. It would prohibit quarantining or isolating healthy Idahoans. The people would have the right to bear arms, have freedom to exercise religion, and ensure that power is not delegated to non-elected individuals.

"Extreme Emergency", has been redefined and definitions for enemy attack, violent insurrection, terrorism had been included. **Sen. Anthon** said there is still interest in reviewing the term, "terrorism". There is continued work to be done in Title 18. He wants to make certain there is not a blanket restriction on people to work, based upon job classification or type, during times of extreme emergency. The Governor would have the authority to act quickly and would have a 60-day window to address the extreme peril. This bill would allow the Governor to extend the emergency to receive federal funds. **Sen. Anthon** said Idaho needs a balance of power.

In response to questions, **Sen. Anthon** said when this bill was amended in the Senate, there was concern about federal dollars attached to a national emergency. The Governor needs to be able to cooperate with the federal government. He clarified the terms, "shall" and "must" are equal in this legislation. It was noted similar language is found in H 135. "State of disaster emergency", was purposely used for consistency with a federal disaster. Restrictions would remain in place and the state would be eligible to receive federal funding. **Sen. Anthon** had no objection to adding clarifying language.

Sen. Anthon said language has been added for Idaho to maintain its sovereignty as a sanctuary state. The controlling language is, "When there is an overwhelming of the government". When a definition is too broad, Idaho tends to have legal problems. He stated the right to peaceably assemble and free exercise of religion requirements would allow in-person religious services. Sen. Anthon said Idaho may assemble a new legislature if the current body could not gather to keep the government working. He also stated the drafters added, "cyber-attack", in critical infrastructure because if there was a cyber-attack, it could quickly overwhelm civil government.

Steven Kiezer testified in support of **S 1136aa**. He was extremely concerned about the imbalance of power in Idaho. There is a perception the Governor has the authority to disregard the Idaho Constitution and Idaho Code. There is too much power for one person, for too long. Bills to restore a balance of power through the legislature, are important.

In closing **Sen. Anthon** said both the House and Senate have worked hard to draft this bill and asked the committee to send **S 1136 aa** to the floor with a **DO PASS** recommendation.

MOTION: **Rep. Barbieri** made a motion to send **S 1136aa** to General Orders.

During discussion, it was noted there has been a lot of work done on this legislation. Even though small changes could improve this bill, time is of the essence and there was a concern about there being enough time to get this bill through the process.

SUBSTITUTE MOTION: **Rep. Armstrong** made a substitute motion to send **S 1136aa** to the floor with a **DO PASS** Recommendation.

Rep. Scott indicated she will support the original motion. Going to the amending order will tie up the process. She said it is critical to add the word federal on Page 3 Line 31 and state of extreme peril on Page 2 line 50, rather than extreme emergency. She supported the original motion.

Rep. Monks, as the chairman of General Orders, clarified there would be time go to General Orders. Speaking to motions, he said the House and Senate worked closely together to get the current language drafted. He will support the original motion but will respect the committee's desire.

Rep. Young offered to make the small changes in a timely manner.

Rep. Monks did not see the proposed changes as being offensive to the Senate but stated there is always a risk. He said he did not want to sway the vote.

Rep. Furniss supported the substitute motion. He thought the committee needed to act and not take any risks. The Senate would need to concur with proposed amendments.

Rep. Barbieri did not think there was a risk to the suggested amendments. The legislature wants to make sure intentions are clearly stated for the courts.

UNANIMOUS CONSENT REQUEST: **Rep. Armstrong** asked for unanimous consent to withdraw his substitute motion. There was an objection. Consent was not granted.

MOTION: **Rep. Armstrong** made a motion to withdraw his substitute motion. **Motion carried by voice vote.**

VOTE ON ORIGINAL MOTION: **Motion carried by voice vote.**

RS 28828: **Rep. Mitchell** presented **RS 28828** to improve voting integrity consistently across counties and legislative districts, increase confidence in Idaho's election results, and provide an auditing process led by the Secretary of State for examining the validity of affidavits signed by those who vote without any photo ID. Revisions include requiring a driver's license or state-issued photo ID for new voter registrations. For those Idahoans who do not have a driver's license, a state-issued ID would be provided for free, to those wanting to register to vote.

Rep. Mitchell noted there a change needed to be made in the SOP. The fiscal impact would no longer be \$2 million because ID's would not be provided for free.

In response to questions, **Rep. Mitchell** said college students cannot vote twice. It is a prosecutable offense. This proposed bill has the same requirements as the Star Card and a US passport. **Rep. Mitchell** said he thinks College ID's note if a student is not a US citizen. He will clarify this point.

MOTION: **Rep. Barbieri** made a motion to introduce **RS 28828**.

During discussion it was there was concern about the ease of voting for college students. **Rep. Mitchell** stated a rental agreement or utility bill ties them to an address and establishes residency.

MOTION: **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:17 a.m.

Representative Crane
Chair

Kelly Staskey
Secretary