

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 01, 2017

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Davis, Hill, Winder, Lodge, Lakey, Stennett, and Buckner-Webb

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 Siddoway** called the Senate State Affairs Committee (Committee) meeting to order at 8:10 a.m.

RS 25390 **A Unanimous Consent Request Relating to Motor Vehicles to prohibit the release of emissions under certain conditions and certain modifications for diesel-powered vehicles.**

Senator Stennett, District 26, said there is a practice where people are purposely altering diesel vehicles to allow heavy smoke and soot emissions that affect drivers, pedestrians, bicyclists, and others. It is a public health issue and safety hazard. Senator Brackett received the Attorney General's opinion on wording which clarified the definition of "coal rolling" that can be found on page 1 in subsection (2) and (3). Idaho State Police is in agreement with this legislation.

Vice Chairman Hagedorn observed that page 1, line 14 and line 19 read the same. He questioned if the word "vehicle" would be better than "person". **Senator Stennett** said the word "person" was used because it was a person altering the vehicle. The person would be illegally altering the vehicle. The person would be cited, not the vehicle. **Vice Chairman Hagedorn** responded that the way paragraphs one and two are written is not about the vehicle emitting significant quantities of smoke and soot; the way it is written is that a person is. The person is controlling the vehicle but the way it is written is "no person shall purposely release significant quantities. . .". **Vice Chairman Hagedorn** gave some examples of what wording could be used. **Senator Stennett** said that a vehicle has a lever or switch that when the modification is made, the person can choose to use that lever or switch. It is the person making the choice.

MOTION: **Senator Davis** moved to print **RS 25390**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 25349 **Unanimous consent request for a Senate Concurrent Resolution authorizing the Legislative Council to appoint a committee to study natural resource issues.**

MOTION: **Senator Hill** moved to print **RS 25349**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 25303C3 **Relating to Abortion regarding the right to observe the heartbeat and the availability of additional informed consent materials.**

Senator Lori Den Hartog, District 22, stated that **RS 25303C3** adds subsection (f) to Idaho's Informed Consent Statute which would direct Health and Welfare to add language to existing material. The language would direct patients where to find information or a health care provider who can answer questions related to the potential to reverse a chemical abortion.

Senator Den Hartog said nationwide, chemical abortions account for about 25% of abortions; in Idaho in 2014, it was 40%. The drugs administered in chemical abortions are administered in two pills. The first antagonizes the hormone progesterone. The second pill, taken one or two days later, causes contractions and expels the pregnancy. Some women may regret taking the first pill and may be unaware of a medical protocol which can possibly provide an opportunity to reverse the effects of the first pill. This may be an option for women who change their minds after taking the first pill and want to continue the pregnancy.

The other change addresses hearing the heart tone versus observing the heartbeat and appears on page 2.

MOTION: **Senator Davis** moved to print **RS 25303C3**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 25372 **A Senate Resolution to recognize, honor, and commend Diane Kelly for her service to the Idaho State Senate and the people of Idaho.**

Senator Stennett, District 26, asked to honor Dianne Kelly, Senator Stennett's prior Chief of Staff for seven years, for her time in the Senate.

MOTION: **Senator Hill** moved to print **RS 25372**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Hagedorn.

RS 25401 **A Senate Joint Memorial to designate The Craters of the Moon as a National Monument.**

Chairman Siddoway stated this memorial was brought by the area residents of cities around Craters of the Moon (Craters). A change in the name would put the Craters in line with the rest of the national parks. Idaho has many wilderness areas in the State but no national parks. There are 54,000 acres in the current monument which is surrounded by 650,000 acres of a Craters preserve. The memorial would change the designation of the 54,000 acre monument to a national park and preserve existing uses in the 650,000 acres around the park which are grazing, hunting, camping, and other similar activities. There was a concern that there could be restrictions on the highway that would run through a national park. Currently, millions of tons of produce are hauled from Eastern Idaho through that area on Highway 20-26 and the intent was to ensure that there would be no restrictions for commercial use. Specifics have been included in **RS 25401**. The memorial is also asking for a broadening of the right-of-way to 400 feet. If the tentacles written in RS 25401 were written into a bill that Congress would pass, it would hopefully strengthen the opportunity for commerce to continue. **Chairman Siddoway** has received letters of support from surrounding counties as well as an Attorney General's (AG) opinion. The AG's letter said that a monument and a national park are managed the same by the National Park Service (see attachment 1).

Senator Winder asked if an exclusion was needed to use dyed fuel in a national park. **Senator Siddoway** responded no. There were no restrictions.

MOTION: **Senator Hill** remarked on the treasure that Idaho has in the Craters area. He said this could be an economic boon to some of our most rural counties and moved to print **RS 25401**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

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

H 95 **Relating to the Idaho State Lottery to provide that the State Lottery shall not disclose certain identifying information of certain prize winners.**

Representative Luker, District 15, related a story of an elderly lady who won the lottery. She received phone calls from people from around the world trying to take her money. She didn't understand why people were subjected to having their names disclosed. **H 95** has two parts: part one deals with the authority of the lottery and what they do with the identity; part two adds an exclusion. When a claim form is submitted, the lottery is authorized to use one's identity and photograph for publicity purposes. Winners are identified on the Lottery web page.

Senator Davis inquired if the effect of passage of **H 95** and the Governor's signature require the Lottery Commission to amend that Administrative Rule.

Representative Luker discussed two tiers of winners: 1.) less than \$600 which is handled by the vendor; and 2.) \$600.00 and over where the claim form is filed with the Lottery. The Lottery Commission requested the language beginning on page 1, starting with line 39, for their administrative use and clarity. The Lottery Commission will not disclose the identity unless the participant gives authorization, and the prize is not conditioned upon signing the authorization. There is still communication between agencies who need information such as the Idaho State Tax Commission or Health and Welfare, and it allows for communication with multi-state lotteries.

Senator Davis asked for confirmation that if the winnings are \$600 or more then they have to opt into the disclosure process. However, what is the statutory effect of not including those who win less than \$600? **Representative Luker** said those winnings were handled at the retail level and **H 95** would not have a direct effect on those winnings. **Senator Davis** said that the less than \$600 could be eliminated because the Lottery Commission would not make the disclosure. **Representative Luker** said that was correct. It was included in the bill at the request of the State Lottery for administrative clarity.

Senator Davis referred to page 7, subsection 34 and asked if it would do any violence to the participatory rights of the Lottery Commission with interstate lotteries such as Power Ball. **Representative Luker** said that was correct. **Senator Davis** asked if the six months exemption could be removed and provide protection without jeopardizing the Power Ball participation by Idaho. **Representative Luker** responded yes. That would be protected under the first section.

Senator Hill asked if Idaho doesn't report the winners, then no one will report them. **Representative Luker** replied yes. **Senator Hill** asked what safeguards are in place if the names are not made available to ensure that another person would not put their name on the winning ticket records. **Representative Luker** stated this process is all subject to internal audit and investigation. The appropriate agencies have access to that information. The Lottery has the requirement that employees can not play. Six states have anonymity without problems.

Senator Davis inquired about the contract duties of each participant. **Representative Luker** read from IDAPA Rules 52.01, .03, .100, and .16(b) - Publicity: "by submitting a claim the player also agrees that the Lottery may use the prize winner's name and photograph for publicity purposes."

Senator Davis asked if the Lottery Commission would have to amend that Administrative Rule. **Representative Luker** answered in the affirmative.

Senator Davis said the second part dealt with interstate lotteries. What are the contract duties when a claim is submitted for distribution from one of those lotteries? **Representative Luker** said his understanding is the State has an agreement with the multi-state organization that they provide the winning information which then authorizes the distribution of funds back to the State Lottery. That does not involve release of public records.

Jeff Anderson, Director, Idaho Lottery (Lottery), thanked Representative Luker for working with the Lottery and making **H 95** conform to certain requirements such as cooperation with the Tax Commission, Department of Health and Welfare, and various multi-state lottery organizations that provide jackpot prize funds. The language of I.C. § 67-7437 reaffirms current Lottery practice. Lottery winners claiming prizes of \$600.00 and higher already opt in for publicity when they sign the winner claim form. The winner claim form states that if they choose to opt out of publicity they can do so. Agreeing to participate in any form of publicity is not a requirement for payment of a prize. If the elements of **H 95** relating to I.C. § 67-7437 become law, winners will still know they can opt in for publicity which most winners do, and they can clearly opt out for publicity which they rarely do.

Director Anderson agreed with Representative Luker to agree to disagree on the changes to I.C. § 74-106 that exempts the winner of a game from public disclosure for six months from the date of the claim when the Lottery is responding to a records request. It will impact the integrity of the Lottery by forcing them to keep secrets for six months and it will require an extensive record keeping process. Winners are paid with public money; warrants are drawn from a public account. **Director Anderson** continued to explain the process and noted that participants, by playing a public game, know their identity may be revealed by a Public Records Request. Anonymity creates opportunity for one to hide winnings from spouses, employers, and other State agencies. The Lottery does not issue winner names and images unless the winner agrees; the Lottery believes in transparency. **Director Anderson** said in the Lottery's view, as anonymity relates to I.C. § 74-106, it would not be good public policy.

Senator Davis asked if more time and expense was needed with a six month delay in identity disclosure. **Director Anderson** said it created more work, but not much fiscal expenditure. **Senator Davis** asked if striking the six months solved his concerns. **Director Anderson** said the larger concern was anonymity, secrecy, and transparency when paid with public funds, not the record keeping.

Senator Winder asked if taxes were collected before payment. **Director Anderson** stated taxes were not withheld for prizes between \$600 and \$5,000, and a W2G and 1099 were issued. For prizes of \$5001 and higher, federal and State taxes were withheld.

TESTIMONY:

Jeremy Pisca, attorney with Risch Pisca Law Firm, representing the Newspaper Association of Idaho. He stated that exceptions to the public records law should be very narrowly tailored and they should come with a very specific policy reason for doing so. He questioned the overriding public policy concern regarding the Lottery. He stressed that if you were to be paid with public money, your records could become public. He requested a no vote.

Senator Davis said he did hear a reason for public policy concern. It regarded people who would prey on claimants. **Jeremy Pisca** said winning tickets can be claimed for up to 180 days. That should be sufficient time to shield themselves from hucksters. **Senator Davis** asked if he would support an amendment to the bill that struck the six month standard.

Jeremy Pisca said he would support an amendment which struck lines 7-11 on page 7. He does not believe there is a public policy need to except these records from the Public Records Act.

Senator Winder asked how the Lottery funds were considered to be public money. **Jeremy Pisca** responded that all of the money paid into the Lottery drawings is paid to the State. The excess funds after prizes are paid, are transferred into the public education fund and the permanent building fund. **Senator Winder** said it didn't become public money until it was allocated to the schools or the building fund. He asked for clarification how this was public money.

Jeremy Pisca said that every Lottery ticket purchased was paid to the State Lottery. It is a public agency. The money is accountable to Idaho citizens.

Skip Smyser, an attorney representing the Idaho Press Club of Idaho, opposed bill **H 95** because it did not promote openness and transparency. It is overbroad. He stated that it was a gaming activity, and a shroud of secrecy was not appropriate.

Representative Luker said the six month disclosure delay was an attempt to compromise. Idaho has a responsibility to protect its citizens. **Senator Hill** asked if there were provisions to protect identity in other gaming activities such as horse racing, winnings on reservations, and authorized gaming activities within the State. **Representative Luker** said he was not aware of any.

Senator Lakey asked if there were other State agencies that would have some records related to the lottery prize winner. **Representative Luker** responded the State Tax Commission would have some records. Health & Welfare may have some.

MOTION: **Senator Davis** moved to send **H 95** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Chairman Siddoway said he would vote no. **Senator Lodge** said the Lottery does a good job. She believed transparency was important, and she would vote no. **Senator Winder** said there were provisions to allow a winner to maintain anonymity if they chose to do so.

Chairman Siddoway called for a **roll call vote**. **Senator Davis** voted aye. **Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Lakey, Stennett, Buckner-Webb, and Chairman Siddoway** voted nay. The **motion failed** 8 to 1.

H 149 **Relating to Elections to provide additional forms of personal identification at the polls.**

Representative Don Cheatham, District 3, presented **H 149** relating to elections to provide additional forms of personal identification at the polls.

This would allow voters to use their concealed weapons permit as identification.

Senator Davis asked if this was in compliance with the Secretary of State and other laws. **Representative Cheatham** said this legislation passed the House last session, but did not have time to get through the full process.

MOTION: **Senator Hagedorn** moved to send **H 149** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Lakey**.

Senator Siddoway asked what forms were used when filing for a concealed weapons permit. **Representative Cheatham**, a retired police officer, said he was covered under U.S. Congress bill H.R. 218 (108th); that is how police retiring in good standing can obtain that permit. **Senator Siddoway** questioned why it was necessary to expand the list if you already had another valid license.

Senator Winder said that he would probably support the motion, but there was a risk of intimidating poll workers by showing up with a concealed weapon permit.

Senator Hagedorn stated a driver's license could be revoked. This would then be a form of identification to vote. A concealed weapons permit was more secure than a student identification card. He supports the bill.

Senator Davis asked if there was a federal law that says you can not carry a concealed weapon into a place of voting for a general election where there are federal elections on a ballot. Does this have an effect on right to carry?

Representative Cheatham said he was not aware of any such federal law.

The motion carried by **voice vote**. **Senators Stennett and Buckner-Webb** were recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Siddoway** adjourned the meeting at 9:30 a.m.

Senator Siddoway
Chair

Twyla Melton, Secretary

Audrey Hays, Assistant Secretary