

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session
April 14, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8:30 a.m. on Thursday, April 14, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

STAFF MEMBERS PRESENT:

Nicolas Anthony, Committee Policy Analyst
Bradley Wilkinson, Committee Counsel
Gale Maynard, Committee Secretary

CHAIR AMODEI:

Today's meeting will be from our Work Session Document ([Exhibit C](#), original is on file at the Research Library), and we will discuss the following bills: Senate Bill (S.B.) 109, S.B. 173, S.B. 248, S.B. 313, S.B. 337 and S.B. 444. Let us begin our work session with Senate Bill 444 that was heard on Tuesday.

SENATE BILL 444: Requires Nevada Gaming Commission to adopt regulations authorizing gaming licensee to charge fee for admission to area in which gaming is conducted under certain circumstances. (BDR 41-1295)

CHAIR AMODEI:

There is an amendment at Tab J of [Exhibit C](#) offered by Robert D. Faiss on behalf of the State Gaming Control Board. This is the same amendment offered

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at the hearing date. Are there any questions by the Committee before a motion is made? Since there are no questions, what is the pleasure of the Committee at this time?

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 444 WITH AMENDMENT AT TAB J OF THE WORK SESSION DOCUMENT.

SENATOR WIENER SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion by the Committee on the motion?

SENATOR CARE:

I will be supporting the bill, but Mr. Faiss knows better where *Nevada Revised Statutes* (NRS) 463 talks about the open policy of open gaming and the public trust.

CHAIR AMODEI:

Is there any other discussion on this motion?

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

CHAIR AMODEI:

We will address Senate Bill 109 on which we had a few hearings. A letter from the International Association of Firefighters, Local 731 ([Exhibit D](#)) expresses their concerns on the subject and will be added to our records.

[SENATE BILL 109](#): Revises provisions concerning presumption that joint custody is in best interest of minor child. (BDR 11-620)

CHAIR AMODEI:

Tab A of [Exhibit C](#) is an amendment drawn up at my request as a result of discussions I have had with Senator Washington. Originally, the bill said a presumption affected the burden of proof that joint custody is in the best interest of the minor child, and, if the parents agree, the court may award joint

legal custody without awarding joint physical custody. "For assistance in making a determination" is the key language and the flaw in the bill that reads, "for assistance in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted." I told some testifiers and Senator Washington that if this language passed, the courts will order investigations similar to the ones now aimed at whether the presumption the bill sought to create was appropriate. I suggested that if we wanted to react to the information we heard from three days of hearings, we should talk about factors the court should consider. Therefore, the amendment at Tab A provides preamble language at lines 25 through 29 and states, "if the parents have agreed to an award of joint custody or so agree," which is existing statute. Then in section 1, subsection b, "to both parents jointly or to either parent, according to the best interests of the child, based upon the best judgment of the court considering the facts of the case and subject to such conditions and limitations as the court deems equitable."

On the second page of the amendment, subsection 4, paragraphs (c) through (k), lines 1 through 10, additional factors are added to the list already in statute and based upon testimony heard. I requested the Legislative Counsel Bureau (LCB) coordinate with judges to look at this language, review the information provided during the hearing and come up with something responsive to the concerns expressed during the hearing.

What is the pleasure of the Committee on S.B. 109?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 109 WITH AMENDMENT AT TAB A OF THE WORK SESSION
DOCUMENT.

SENATOR MCGINNESS SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the motion?

SENATOR CARE:

I support the motion and note that all the factors in subsection 4, paragraphs (c) through (k), make reference to the parents, sibling or child. There was a Nevada Supreme Court case, *McGuinness v. McGuinness* (1998), and the annotation states, "despite the language of the statute, the best interest of the

child can never be determined in a vacuum without considering the other members of the family. The circumstances and well-being of the parents are inextricably intertwined with the best interest of the child." The proposed amendment captures the spirit of that language.

CHAIR AMODEI:

The attempt was to hear some of the complaints and how these cases were processed. We are adding those factors to the statute we hope will assist litigant's understanding of the basis of decisions and prioritize some things in statute for those making the decisions.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

The next bill on the docket is Senate Bill 173.

SENATE BILL 173: Increases amount of homestead exemption and makes various changes relating to property which is exempt from execution by creditors. (BDR 10-616)

CHAIR AMODEI:

This bill adds some additional homestead protection. I was contacted by some bankruptcy people who indicated that providing these different areas may change how the bankruptcy operations work in terms of what is available in a debtor-creditor context.

SENATOR CARE:

Historically, in dealing with the amount of the homestead exemption, the Legislature adjusts the figure upward to make it comparable with the price of a home. The focus has primarily been on Clark County, and I have looked at the research from staff. I am going to throw out a figure of \$285,000, and I do not see any reason to leap to \$500,000. This would make it difficult for a judgment creditor to collect when he has been properly adjudicated to have a judgment against someone who has committed fraud. As to the automatic, I do not see

a need in doing this. The home owner should have some duty to record the homestead exemption; it is not something you have to do before the judgment is rendered or the litigation has started.

Somewhere, there is an additional exemption of a \$4,000 kitty, and I do not see the need to do that. The figure was increased from \$1,000 to \$5,000, and some items were added such as libraries. Section 5 on page 9, paragraph (a) needs some language to make it clear the exempt property should be in the aggregate. Subsection 1, says \$5,000 in value, I would add the words "in the aggregate."

SENATOR MCGINNESS:

I tend to agree with Senator Care, at least on the amount of protection. It seems like we have done this several times since I have been here. Somewhere in here a price of a medium home in Clark County is \$286,000 and \$299,000 in northern Nevada. Rather than falling behind the curve, I would rather see us go to an even number of \$300,000. Prior to this Session, Mr. Philip Goldstein contacted me about some of his concerns. One of the things he talked about was workman tools: they wanted to extend the protection to a person's tools, and I thought that was okay. Some of the other issues Senator Care spoke about, including a cap on the aggregate, will be fine.

BRADLEY WILKINSON (Committee Counsel):

In reference to Senator Care's aggregate, the way that statute is currently interpreted, all of the items listed are considered to be in the aggregate. This is the way it has always been interpreted. If we add it in one section, we need to add it in all of the others; otherwise, that one would suggest the other exemptions were not in the aggregate.

CHAIR AMODEI:

I am not familiar with this statute, but when we look at the bill, it seems to do two things. One, it adjusts the equity exemption under the traditional homestead from \$200,000 to \$500,000; secondly, it adds some things to the personal property exemption, such as jewelry and works of art. How does this fit in, or is it separate from the homestead exemption?

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MR. WILKINSON:

Personal property is separate from the homestead exemption.

CHAIR AMODEI:

What is the pleasure of the Committee for the homestead exemption? Is it \$300,000? What about these other categories? Do we want to add works of art and jewelry to the exemption?

SENATOR CARE:

That information is contained in section 5, subsection 1, paragraph (a). What I have done is expand the number of items, but they still fall under a cap. It is \$5,000, where before it was \$1,500. It used to be private libraries, not to exceed \$1,500. Now we are saying private libraries, works of art, musical instruments and jewelry, not to exceed \$5,000. Therefore, if you have works of art worth \$4,500 and private libraries at \$4,500, you are still capping at \$5,000. I am fine with the language, but in the end if you had a sale, the debtor gets to keep \$5,000, no matter what it is. I would also point out that in paragraph (d), we added equipment and inventory to supplies, tools, instruments and materials, and raised the exemption from \$4,500 to \$10,000. That would also address Mr. Goldstein's concerns.

CHAIR AMODEI:

What was your statement on the provision of a general exemption of \$4,000 being added? Is that section 21?

SENATOR CARE:

Page 8, section 4, subsection 21, is new language. It creates a new exemption of \$4,000 on certain liquidity such as money, stocks, bonds and annuities. We are adding something if we do this. I would be opposed to it, but Committee members may have other thoughts.

CHAIR AMODEI:

Mr. Ernest K. Nielson has a tab where he wanted to talk about garnishing wages at 60 times the minimum wage and making the homestead automatic. Can any one of you explain?

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SENATOR WIENER:

As I recall, did he not discuss wage garnishment at 45 times the minimum wage, which almost gets us up to the 200 percent of poverty? Is that the same testimony on using all these factors?

CHAIR AMODEI:

It might have been the same testimony, I am not sure. Is there anyone on the Committee willing to make a motion?

SENATOR CARE:

I would say an amendment for a \$285,000 exemption. Looking at the bill as a whole, I would change the \$500,000 to \$300,000 with no automatic exemption, and delete the \$4,000 exemption in section 4, subsection 21.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 173 WITH A \$300,000 HOMESTEAD EXEMPTION AND WITHOUT THE \$4,000 PROVISION IN SECTION 4, SUBSECTION 21 AND AMENDMENTS IN TABS B, C, D OR E OF THE WORK SESSION DOCUMENT.

SENATOR NOLAN SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the motion?

SENATOR NOLAN:

Moving forward with the motion is the best thing to do.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

CHAIR AMODEI:

The next Senate bill up for discussion from our Work Session Document, [Exhibit C](#), is Senate Bill 248.

SENATE BILL 248: Creates statutory right to jury trial in justices' courts and municipal courts for defendants charged with certain misdemeanors. (BDR 14-1122)

CHAIR AMODEI:

Tab F of [Exhibit C](#) has research memos on states that authorize misdemeanor jury trials. What is the pleasure of the Committee on S.B. 248? Hearing no motions, we will move to Senate Bill 313.

SENATE BILL 313: Provides immunity from liability to certain persons and governmental entities for certain claims based on consumption of food. (BDR 3-748)

CHAIR AMODEI:

This bill was heard in our Committee on April 5 and 7. Senator Nolan has an amendment in the Work Session Document at Tab G for consideration.

SENATOR NOLAN:

I met briefly with Mr. Bill Bradley of the Nevada Trial Lawyers Association and he made a few salient points. We went back and met with the proponents of the bill, and all who were involved contacted legal counsel. I expressed my concerns in some areas where the trial lawyers had concerns regarding the state of discovery. We worked through this amendment, and section 3 changed to define food in accordance with federal law.

In section 5, we added the definition of knowingly and willfully to clarify the standard a judge could use in assessing a motion to dismiss. The amendment also brought in the defense that following a federal, state or local regulation will not constitute a knowing and willful violation of the law.

Section 6, that defines claims, was changed in order to clarify that civil actions rising out of weight gain or obesity are defined as health-care conditions. This objection was that we were dealing with the secondary health effects of heart attacks, strokes and other conditions related to obesity. We changed the bill to make obesity and weight gain the primary issue for which a complainant cannot bring a frivolous lawsuit.

SENATOR NOLAN:

We have attempted to respond to the objections of the trial lawyers and issues some Committee members had about protections granted they said were too broad. The scope of the immunities provisions has been narrowed to address only those types of claims filed in obesity lawsuits in language taken from other states that have implemented this type of statute.

In section 7, the provisions only cover claims arising out of health conditions from weight gain, obesity and the likely result of accumulative effects of overeating. If the health conditions were not included in the language, S.B. 313 would not ban all types of lawsuits. In New York, some people are suing for diabetes and other types of things. Section 7 defines the term health condition associated with weight gain or obesity as used by the National Academy of Sciences and is more likely to provide a predictable and uniform standard for judges to determine certain types of conditions.

The trial lawyers also expressed some concern with the stay of discovery and summary judgment motion. Therefore, section 7, subsection 2, will now include the pleading of requirements necessary for the judge, whether a lawsuit is allowed under the knowing and willful conduct and proximate cause of the injury or condition. If a judge determines that legal standards for knowing and willful are the proximate cause and they are met, the case can move forward to discovery. This was an issue with the trial lawyers. Mr. Bradley pointed out, and I agreed, there needed to be a mechanism to allow those cases with merit to move into discovery, whereas the cases are dismissed in those lawsuits that fail to meet the threshold.

Section 8 loosens the stay of discovery to allow the judge to lift the stay in order to preserve the evidence.

Section 9 clarifies that the bill does not unwittingly create any new claim or right to action, nor does it unwittingly impede the jurisdiction of agencies to declare violations of some type of adulteration.

Finally, the stay of discovery and the pleading requirements are important. They prevent some trial lawyers or representatives from becoming creative by exploiting the process or exemptions. The discovery stay ensures the plaintiffs' attorneys cannot, through some artful pleading, file a lawsuit through an exemption before the court can decide if the lawsuit is legitimate.

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This bill was brought forth as important, not only to restaurant owners, but the Restaurant Owners Association as well as the retail associations.

CHAIR AMODEI:
What is the pleasure of the Committee?

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 313 WITH AMENDMENT AT TAB G OF THE WORK SESSION DOCUMENT.

SENATOR NOLAN SECONDED THE MOTION.

CHAIR AMODEI:
Is there any discussion on the motion?

SENATOR WIENER:
I have done some work regarding obesity, healthy choices and moving forward to turn population trends around into healthy trends for Nevadans. I have struggled with this bill. I am not a lawyer, and it is complicated. I am also concerned about the new policy we will be establishing with this bill. I will not support this in Committee, but, if it were passed, I will spend time studying it.

SENATOR CARE:
The testimony on this bill began with people saying we are all responsible for our personal choices, and I agree. If we had a resolution that stated the Senate believes everyone is responsible for their personal choices, I would vote for that. This is not what the bill is about. The bill is intended to prohibit a cause of action where, maybe, none exists in the first instance. The testimony is that five lawsuits have been filed nationwide and have all been dismissed with one on appeal.

People talk about trial lawyers and frivolous lawsuits. What we have here, with all due respect to my colleague, is a frivolous piece of legislation. No one has demonstrated the need to do this in Nevada, but here it is. Furthermore, for those who are not attorneys, there is nowhere else in statute that has language like this bill to basically prohibit someone from thinking about a lawsuit like this. Since we agree we are all responsible for our own actions, I would submit this includes the agents and employees of political subdivisions in the State.

I would be prepared to support this bill if the maker of the motion would consider amending the motion to repeal NRS 41.035 in the same chapter and getting rid of the antiquated \$50,000 cap on the negligent action of government employees. If we are all responsible for our actions, then this should include government agents and employees.

CHAIR AMODEI:

Do you want to repeal the governmental immunity cap, Senator McGinness?

SENATOR MCGINNESS:

I appreciate my colleague's comments. I have attorneys on either side of me, and I have some concerns about this, as well. I know Nevada has no cases, and there are only five cases nationwide. The incident within the last week, where a finger was found in a cup of chili, turned out to be someone looking for an expectation of great reward. There have been great rewards by targeting food establishments. They become targets; there is an expectation of success, and you can make money by challenging. The personal responsibility is probably the ultimate, but we need to let people know they cannot make outrageous challenges that target fast-food restaurants or a four-star dining establishment. I will pass on Senator Care's offer to repeal the cap.

CHAIR AMODEI:

Senator Care, the motion will stand as made.

SENATOR NOLAN:

I probably would have taken my colleague's offer if I did not think it might cause a fiscal note to the bill. With respect to the finger in the chili, that is one of those substances that would not cause obesity. With regard to this issue, there may not have been a case brought forward in Nevada, but how many people will it affect if, in fact, there is a claim of obesity because someone has overeaten. This bill addresses those people who make claims they got fat and blame it on the restaurants because they sat and overate time and time again, and now it is their fault.

Only one claim like that would have a huge ripple effect in the business community with the costs associated dealing with those claims. The claims dismissed in the past have caused enormous legal battles and significant

damage to the reputations of establishments and businesses that provide a service. It takes millions of dollars for a restaurant to recover from these types of lawsuits.

We have addressed the concerns the trial bar has put forward, and we do not want to see a lawsuit like this filed in Nevada. We do not want to go the way of the tobacco and gun industry. Keep in mind, there are 17 other states with legislators like ours, who sat down and determined that this law was important in protecting the businesses in their state, and 10 other states are currently contemplating doing the same.

SENATOR CARE:

The bill is more expansive than that. It says, "or a health condition generally." The woman who found the finger in the chili claimed it was from Wendy's International, Incorporated. She had filed several other suits elsewhere and was contemplating a suit for emotional distress. Arguably, that lawsuit would have been filed if she wanted to do that, despite this bill, assuming it took place in Nevada.

Every attorney knows you cannot file a lawsuit unless you have a good-faith base in the law and good-faith basis in fact to do so. I would laugh if I were a judge and a lawsuit like this came to my courtroom. My point is it has not happened in Nevada, and I do not think it will happen here.

The fast-food industry will make chili out of this bill as it parades its triumph from state to state on what is an unnecessary exercise in legislation. The only long-term consumption of fingers I am aware of is chicken fingers. The language is vague, and I am opposed to the motion.

THE MOTION FAILED. (SENATORS CARE, HORSFORD AND WIENER VOTED NO. SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

CHAIR AMODEI:

The Committee will now turn its attention to Senate Bill 337 of which Senator Wiener is the sponsor.

SENATE BILL 337: Establishes civil liability for serving, selling or otherwise furnishing alcoholic beverages or controlled substances to minors in certain circumstances. (BDR 3-784)

SENATOR WIENER:

This bill deals with social hosting, and I have provided the Committee with two options. Senator Care has spoken to me with some concerns he and I had about the definition and scope of residence. The other concern was the definition of adult where the bill addresses those aged 21 and older who provide an alcoholic beverage or furnish a controlled substance. In Nevada, we have different ages for adult; in many places it is 18 and over, but in terms of drinking, it is 21 and older. I do not know what choice the Committee would want to go with, and this is why I have provided the Committee with two choices.

We have a policy consideration for cause of action for the underage drinker against the person who provided the alcohol or controlled substance. There are also Senator Care's concerns that residence may be a narrow definition, and he can discuss this with the Committee. I have added a recreational vehicle or a vessel to the bill, and this may exclude dormitories and fraternity houses. Finally, should it be someone 21 or older or 19 or older? Maybe this can be addressed by Senator Care.

SENATOR CARE:

My concern is a bill confined to a residential setting wherein someone underage who is given a drink in a college dorm goes and causes damage to an innocent third party. The court might rule that the bill simply says residential setting and does not include a college dorm; therefore, the legislation did not intend to include this setting, the case is dismissed. It seems you can have a bill that says, "anyone 18 or older who supplies, furnishes or sells, except as otherwise provided in the law, alcohol or a controlled substance to anyone under the age of 21" is subject to an act of negligence charge.

SENATOR WIENER:

We also have to deal with whether the underage drinker or consumer of the substance has a cause of action against the one who provided the substance.

SENATOR CARE:

I think the consumer would have a cause of action. Although you have to be 21 to drink, in the eyes of the law, you are an adult at the age of 18.

SENATOR WIENER:

That is not where I was going. The person to whom the alcohol or controlled substance was furnished would have a cause of action if they were injured in some way.

There are two options. One option is for a cause of action, and another option against a cause of action. An argument for a cause of action would be that the State does not think they are of age to make that decision for themselves. The other argument against a cause of action would be that no one made them take the substance; therefore, this is a policy issue I was unable to make and thought the Committee should help drive the direction.

The person who causes damage, while under the influence of the substance, should they have a cause of action? Some states say no, some say yes, while others are silent.

SENATOR CARE:

My thoughts were the innocent third party would have a cause of action against both the person receiving the substance and the person giving the substance. As to the person who consumed the substance having a cause of action against the person who supplied the substance, more than likely this person would not assume this is alcohol and drink it. I do not know about a controlled substance. Is it possible to receive it without knowing it? This might be different.

Do we have to decide if the person who receives the alcohol has a cause of action, or would we let the courts determine that based on the facts of the case?

SENATOR WIENER:

Again, some states are silent as to whether there is a bar to action; in that case, it would be up to the courts to make that decision. Most states only address alcohol and not controlled substances.

SENATOR CARE:

Chair Amodei, if you are looking for a motion, it would have to be conceptual, whereby, a person 18 years or older who furnishes alcohol or a controlled substance to anyone under the age of 21 in the case of alcohol. Anyone, if it is a controlled substance, can be held liable for the damage caused by the person who receives the substance to an innocent third party.

I would leave the bill silent as to if the person receiving the substance has a cause of action. It would depend on the facts.

SENATOR WIENER:

For clarification, that issue is in Tab H of the Work Session Document, [Exhibit C](#). The conceptual language needs to remove the language of "residence" because specifying residence, including vessels and recreational vehicles, would interpret everything else as excluded. Senator Care did mention "sells," but "furnishes, makes available or knowingly permits" will do. The next issue is age, if I can get some help on that.

SENATOR CARE:

If you are an adult at the age of 18, then you should be judged accordingly although you cannot legally drink until you are 21. I do not make a distinction between supplying alcohol to someone when you are 18.

SENATOR WIENER:

I struggled with this bill. Those would be the conceptual amendments, and we will work with Tab H.

CHAIR AMODEI:

Tab H is silent and does not indicate whether the person who received the alcohol and caused an injury would have a cause of action against the person who provided the substance.

MR. WILKINSON:

I want to clarify the bill has two aspects. It has a civil liability, and then it has changes to the criminal statutes. Tab H provides a different criminal penalty than that currently contained in the bill. It is expanded to include controlled substances. Under the current law, the category felony varies, depending on the controlled substance, but it is a serious crime to provide a controlled substance to a minor. It is Category B, C or D, and if it is a second offense, it is

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a Category A. The intent of the Committee needs to be clear with respect to the criminal penalties. It is either leaving section 2 of the bill as is or enacting the new criminal section in Tab H.

SENATOR CARE:

The language ought to include, "except whereas otherwise provided by law," and we are talking about the criminal aspects of the bill. Section 2 can stay except it makes a difference as to the type of controlled substance.

MR. WILKINSON:

Section 2 of the bill applies only to alcohol, whereas section 2 of Tab H is alcohol plus controlled substances.

SENATOR CARE:

Controlled substance should be specified to determine what category of felony.

MR. WILKINSON:

That is correct. How the controlled substance is scheduled will determine the penalty. There is an enhancement for a second or subsequent offense.

SENATOR CARE:

Therefore, a reference would have to be made to existing statutes, is this correct?

MR. WILKINSON:

This can be done to make it clear. I do not think the Committee would desire to make it a misdemeanor to provide a controlled substance to a minor, when the actual penalty is more severe.

SENATOR CARE:

Leave section 2 for alcohol.

MR. WILKINSON:

That would be another option.

SENATOR CARE:

We should remain silent on the controlled substance because there is already a mechanism for that.

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MR. WILKINSON:

That is correct. Remove the controlled substance in section 2, or keep the current section 2 in the bill.

SENATOR CARE:

This is agreeable to me if it is agreeable to the sponsor of this bill.

SENATOR WIENER:

Are we deleting any references to controlled substances because penalties are already defined in another section of law?

MR. WILKINSON:

One approach is to say, unless a greater penalty is provided in chapter 453 of NRS, but this would not always be the case. I think a greater penalty will always be provided in NRS 453.

SENATOR WIENER:

Are we excluding the references to controlled substances so it is not a cause of action because it is somewhere else in statute?

MR. WILKINSON:

It will still be included in the civil action section, and I am not certain if we need to have the civil action tied to the violation of a criminal statute. It would constitute a violation of the criminal statute in NRS 453.

SENATOR WIENER:

Is that because it is already in law?

MR. WILKINSON:

That is correct.

CHAIR AMODEI:

The Committee wants to process the bill. Let us take our time and make sure the amendments are clear and start at the beginning. We will go through the amendment and vote.

Senator Care, do you want to take it from here? After the S.B. 337 vote, the maker of the motion and the second can decide who does the Senate Floor work.

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NICOLAS ANTHONY (Committee Policy Analyst):

Senator Care's motion was to amend the bill so anyone 18 years or older who furnishes alcohol or a controlled substance can be held civilly liable. The bill will be silent as to whether the person taking the substance still has an action. This would apply in any setting, not just residential, and will include dormitories and other types of dwellings. As far as the controlled substance portion of the criminal statute, the option is to delete it or reference it to NRS 432.

SENATOR CARE:

It is difficult to imagine a scenario where you would have to say as provided by NRS 432; I would leave it out because the mechanism is already in place to handle controlled substances. That would be the motion.

SENATOR WIENER:

Does it remain in the civil portion?

SENATOR MCGINNESS:

Are we remaining silent on whether the person who receives the alcohol or controlled substance has a cause of action?

MR. ANTHONY:

That is correct.

CHAIR AMODEI:

Are there any other questions or a motion to amend and do pass S.B. 337?

SENATOR CARE MOVED TO AMEND AND DO PASS S.B. 337 WITH AN AMENDMENT THAT A PERSON 18 YEARS OR OLDER WHO FURNISHES ALCOHOL OR A CONTROLLED SUBSTANCE TO ANYONE UNDER THE AGE OF 21 IN THE CASE OF ALCOHOL AND ANYONE, IF IT IS A CONTROLLED SUBSTANCE, CAN BE HELD LIABLE FOR THE DAMAGE CAUSED BY THE PERSON WHO RECEIVES THE SUBSTANCE TO AN INNOCENT THIRD PARTY, AND S.B. 337 WILL REMAIN SILENT AS TO WHETHER THE PERSON RECEIVING THE SUBSTANCE HAS A CAUSE OF ACTION.

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SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MCGINNESS VOTED NO.)

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CHAIR AMODEI:

Senate Bill 313 will be called up again tomorrow. Mr. Anthony, can you provide the Committee with summary information on what we have done in Nevada for tort reform and whether there are federal applications. In this context, we have fast food and restaurants. There seems to be a progression in tort reform in various areas, all of which are related to living our daily lives. Every session we have someone else who wants to be exempt.

Is there anything else to come before the committee?

SENATOR WASHINGTON:

I would like to record my vote on three of the measures already voted on.

CHAIR AMODEI:

I have no objection to doing that. Let us go back to our action on S.B. 109. Is there a motion to reconsider Committee action on S.B. 109?

SENATOR CARE MOVED TO RECONSIDER THE ACTION WHEREBY THE RECOMMENDATION ON S.B. 109 WAS TO AMEND AND DO PASS.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

What is the pleasure of the Committee on reconsideration of S.B. 109?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 109 WITH AMENDMENT AT TAB A OF THE WORK SESSION DOCUMENT.

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SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Is there a motion to reconsider Committee action on S.B. 173?

SENATOR WIENER MOVED TO RECONSIDER THE ACTION WHEREBY
THE RECOMMENDATION ON S.B. 173 WAS TO AMEND AND DO PASS.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR AMODEI:

What is the pleasure of the Committee on reconsideration of S.B. 173?

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 173 WITH A \$300,000 HOMESTEAD EXEMPTION AND
WITHOUT THE \$4,000 PROVISION IN SECTION 4, SUBSECTION 21,
AND AMENDMENTS IN TABS B, C, D OR E OF THE WORK SESSION
DOCUMENT.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Is there a motion to reconsider Committee action on S.B. 444?

SENATOR WIENER MOVED TO RECONSIDER THE ACTION WHEREBY
THE RECOMMENDATION ON S.B. 444 WAS TO AMEND AND DO PASS.

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SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

What is the pleasure of the Committee on reconsideration of S.B. 444?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 444 WITH AMENDMENT AT TAB J OF THE WORK SESSION DOCUMENT.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR NOLAN:

For the purpose of reconsideration, do we have to make that motion on the same legislative day? Can we reconsider S.B. 313 and hold the vote until tomorrow?

CHAIR AMODEI:

There was a motion and a 3-to-3 vote. We do not need to reconsider since it will be brought up again tomorrow for a vote. Is there anything else to come before the Committee?

MR. ANTHONY:

Outside of S.B. 432 and S.B. 313, there are 14 measures still to be decided.

CHAIR AMODEI:

Did we miss a bill today?

MR. ANTHONY:

It was part of the discussion on S.B. 173. Staffing had combined the two because they relate under the same Title and chapters of the NRS.

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CHAIR AMODEI:

Let us work through this bill today. We will discuss Senate Bill 432.

SENATE BILL 432: Revises exemption from execution of certain money, benefits, privileges or immunities arising or growing out of life insurance. (BDR 2-1316)

CHAIR AMODEI:

Senate Bill 432 has a proposed amendment at Tab D of Exhibit C deleting obsolete language from the insurance provision and adding language to prohibit defrauding creditors. What is the pleasure of the Committee?

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 432 WITH THE AMENDMENT AT TAB D OF THE WORK SESSION DOCUMENT.

SENATOR NOLAN SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the motion?

SENATOR MCGINNESS:

Does the motion refer to Revised Version 2 in Tab D?

MR. ANTHONY:

That is correct. It is the version circled in Tab D.

CHAIR AMODEI:

Are there any other questions on the motion?

THE MOTION CARRIED. (SENATOR CARE VOTED NO.)

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CHAIR AMODEI:

Is there anything else to come before the Committee? Seeing no further business, we are adjourned at 9:54 a.m.

RESPECTFULLY SUBMITTED:

Gale Maynard,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____