

**MINUTES OF THE
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eighty-second Session
March 6, 2023**

The Senate Committee on Growth and Infrastructure was called to order by Chair Dallas Harris at 3:31 p.m. on Monday, March 6, 2023, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dallas Harris, Chair
Senator Pat Spearman, Vice Chair
Senator Julie Pazina
Senator Scott Hammond
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Kristin Rossiter, Policy Analyst
Vicky Lind, Committee Secretary

OTHERS PRESENT:

Alan Jenne, Director, Nevada Department of Wildlife
Brian Bowles
Brady Phillips, Staff Game Warden, Nevada Department of Wildlife
Laurie Diefenbach, Nevada Attorneys for Criminal Justice

CHAIR HARRIS:

The first and only bill on our agenda today is [Senate Bill \(S.B.\) 59](#). Committee members you should have received a copy of the proposed amendment from the Nevada Department of Wildlife ([Exhibit C](#)).

[SENATE BILL 59](#): Revises provisions relating to vessels. (BDR 43-225)

ALAN JENNE (Director, Nevada Department of Wildlife):

I am the Director of the Nevada Department of Wildlife (NDOW). With me today is Captain Brady Phillips, also of NDOW, and former NDOW employee Captain Brian Bowles, who is currently the Administrator with the Nevada Office of Project Management. Brian assisted with the drafting of this bill's language while employed at NDOW. The goal with the submission of this bill is to align *Nevada Revised Statutes* (NRS) 488 with federal regulations, specifically the U.S. Coast Guard (USCG) regulations with lifejacket terminology and the engine cut-off switch.

Refer to pages 2 and 3 of NDOW's presentation for details on the goals of this bill ([Exhibit D](#) which contains copyrighted material. The original is available upon request of the Research Library.)

You have received a hard copy of our friendly amendment, [Exhibit C](#). This was needed to clean-up language identified during the drafting of the bill. Other proposed changes are sections to be removed to consider other alternatives.

BRIAN BOWLES:

Refer to pages 1 to 3 of [Exhibit C](#) for language specifics.

The Department seeks to amend S.B. 59, page 9, line 42 to match the language in the federal regulations. The amendment also changes S.B. 59, page 10, lines 17 to 22, and page 11, lines 25 to 26 remove the requirement to register and title human-powered and sailing vessels which would have added another fee for citizens. The amendment seeks to remove a provision on S.B. 59, page 18, lines 21 to 22, requiring a throwable personal flotation device to contain no less than 30 feet of throwing line attached. Often the preserver needs to be thrown further, and this removes the requirement for the line.

Amended language in S.B. 59, page 19, lines 23 to 30, pertains to removing abandoned vessels from the landscape. The amendments made to page 31, section 38, lines 8 to 41 will mirror federal language. The USGC recently passed federal legislation regarding engine cut-off switches. Nevada was one of the only states that had an engine cut-off switch requirement. Upon passage of the federal law, Nevada's law was preempted because the language did not align with federal regulation. The language in section 38, lines 8 to 41 was drafted by the USCG Office of Boating Safety to ensure it would pass their preemption requirements.

SENATOR HAMMOND:

In section 24, you refer to an obstruction, such as a vessel, that might be blocking a waterway, ingress or egress. Is there a procedure that enables you to remove the obstruction immediately?

MR. BOWLES:

The answer is yes. If there is something that is creating hazard to navigation, it can be removed immediately. Some of the confusion comes from the current 48-hour language, which is why the friendly amendment provides for the immediate removal of waterway obstructions.

SENATOR HANSEN:

Current law in section 39 reads, "except as otherwise provided in this chapter, any person who violates any of the provisions of this chapter is guilty of a misdemeanor." What is the reason for the expansion?

MR. BOWLES:

The reason for the expansion is to specifically mirror the provision in NRS 501.385, which is the same penalty provisions in the wildlife chapters. Our wardens do not have the commensurate power to sanction somebody who is obstructing them while enforcing the laws in NRS 488.950 as they do in the other chapters.

SENATOR HANSEN:

In reviewing NRS 502.120 for a hearing on Senate Bill 141, the American Civil Liberties Union reviewed the language and as written, it violates people's rights.

SENATE BILL 141: Requires provisions related to wildlife. (BDR 45-294)

This is a criminal statute, and it violates people's Miranda Rights. I believe what you are saying is that anybody who hinders or delays or otherwise interferes with any officer, even when just speaking with someone, and you are trying to obtain information from them, it requires they give up their rights. I am in support of leaving the language as is, as I do have an issue with forcing people to potentially provide criminal evidence that might incriminate themselves.

MR. BOWLES:

Our intent is to mirror the language in NRS 501.385. I would be interested to hear if this provision violates Miranda Rights. In addition, I am amenable to removing it, if that is the will of the Committee.

SENATOR SPEARMAN:

Walk me through what that would look like and show me where the Mirandize part would come in so that Fifth Amendment rights would not be violated. Does that make sense?

MR. BOWLES:

The requirements for Miranda are two-pronged; first, that a person must be in custody, and second, the person must be being interrogated. In an interrogation situation, the questions are intended to be confrontational and differ from a congenial interview. When a person is in a field interview, when neither of the two-prong requirements for Miranda are met, the person is not being interrogated. Therefore, if that person then hinders or obstructs the officer in any way, the result would be a misdemeanor crime. And again, this mirrors language that is already in NRS 501.385.

SENATOR SPEARMAN:

Perhaps we can roleplay a situation. I am somebody that is doing something, and you want to figure out what is going on. What question would you ask me, and how would I need to respond? I believe the custody piece is not only physical custody, with handcuffs, etc., but also an officer telling a person to stay somewhere because they might have to take the person in for further questioning. It could be either physical or verbal, is that correct?

MR. BOWLES:

Yes.

SENATOR SPEARMAN:

Again, I am doing something, and you walk up, and you say what to me?

MR. BOWLES:

As an officer, I would simply start talking to you in a consensual encounter.

SENATOR SPEARMAN:

However, I do not need to answer you.

MR. BOWLES:

It is during my investigation, of say an accident involving two boats, or you are potentially operating a vessel under the influence, that I need to question you. If you are hindering me, you are blocking my ability to investigate and do my job.

CHAIR HARRIS:

How can you enforce obstruction without violating a person's Fifth Amendment rights to self-incrimination? I am sure there are parallels in criminal law because officers must investigate various types of crimes. Each person should be able to decide whether they do not want to answer an officer's question without leading the officer to believe the person is now obstructing and cites them as such. Perhaps you can take this concern back and consult with the Office of the Attorney General, or whomever provides legal counsel for your Department. I ask that you then report back to the Committee on your findings.

My question is about the amendment where you intend to strike out the requirement for the 30 feet of line on a mobile life preserver. If you strike the 30 feet of line requirement, does that mean you do not have to have a line at all?

BRADY PHILLIPS (Staff Game Warden, Nevada Department of Wildlife):

The Department is asking for this to be removed as a requirement for 26- to 40-foot vessels only. Currently, our 16- to 26-foot vessels require a throwable lifejacket/preserver but have no line attached to it. Vessels over 40 feet require two throwable lifejackets/preservers, one at the front and one at the rear of the vessel, but no line attached to them. These throwable life preservers are thrown like a frisbee would be, and they are either square seat cushion style or the standard lifebuoy ring you see on major commercial vessels. When you attach a line to it and throw it, that line gets wrapped around it. When you throw it like a frisbee or if the person is holding the rope, it may stop short of going the distance and reaching the individual. It is a law that has been on the books for quite some time, and it only fits a small demographic of vessels. It defeats the purpose of the life preserver and could be a hindrance.

CHAIR HARRIS:

If we strike that language, are you saying that there would still be a requirement to have the life preserver on the boat? It just would not require the preserver to be attached to a line?

MR. PHILLIPS:

That is correct. They would still have to have a life preserver, and it would just remove the line attached to it.

CHAIR HARRIS:

Is there some benefit to the line being attached that outweighs the couple of times where it gets tangled? I imagine you want it attached so that it can be reeled back in, and you can throw it back out. On the other hand, it may be more difficult for the person in the water to get back safely to the boat. Is there a reason you want it attached? We may need to require a 50-foot line instead of a 30-foot line.

MR. PHILLIPS:

You are correct. It would be used to pull someone back to the vessel. The intent of a life preserver is that the individual would hug it for floatation. The vessel can then go over to them, or they can kick back to shore if they are close enough. That is why it does not make sense; it is only on one of our three classes of vessels required to carry them.

SENATOR PAZINA:

Is there an inspection process regarding lifejackets, especially those of appropriate sizes? I am thinking of families who are boating with children and ensuring that they have the proper sized lifejackets on board.

MR. PHILLIPS:

Yes, there is an inspection. We do a vessel safety inspection whenever we have reasonable suspicion or probable cause to make a stop on a vessel. There are clauses in our procedures for us to look for certain things like required life preservers and fire extinguishers. Part of that is ensuring they are the correct size so that a child is not in an adult-size lifejacket.

SENATOR PAZINA:

Besides when being stopped for an infraction, is there an opportunity for a safety inspection, like when people are getting their licenses?

MR. PHILLIPS:

We do have a clause on the books that allows us to do vessel safety inspections to inspect for those things, but they are typically not undertaken at this time by most of our officers. However, we do conduct educational stops on

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the boat launch ramp to educate people. We cannot stop them from launching if they are out of compliance because they are not technically in violation until they are on the water without the correct equipment. We use that as a compliance education opportunity.

LAURIE DIEFENBACH (Nevada Attorneys for Criminal Justice):

I am reading my testimony ([Exhibit E](#)) in opposition to a portion of S.B. 59.

Remainder of page intentionally left blank; signature page to follow.

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CHAIR HARRIS:

Having nothing further to come before the Senate Committee on Growth and Infrastructure, we are adjourned at 4:00 p.m.

RESPECTFULLY SUBMITTED:

Vicky Lind,
Committee Secretary

APPROVED BY:

Senator Dallas Harris, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 59	C	1	Brian Bowles	Amendment
S.B. 59	D	2	Alan Jenne, Nevada Department of Wildlife	Presentation
S.B. 59	E	7	Laurie Diefenbach	Written Testimony in opposition.