

**MINUTES OF THE  
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE  
STANDING COMMITTEE MEETING  
ROOM 250, STATE CAPITOL  
FEBRUARY 29, 2012**

Members Present: Sen. Mark B. Madsen, Committee Chair  
Sen. Ben McAdams  
Sen. Ross I. Romero  
Sen. Steve H. Urquhart  
Pres. Michael G. Waddoups  
Sen. Todd Weiler

Members Excused: Sen. Lyle W. Hillyard

Staff Present: Nathan Brady, Policy Analyst  
Karen C. Allred, Committee Secretary

A list of visitors and a copy of handouts are filed with the committee minutes.

Chair Madsen called the meeting to order at 4:31 p.m.

**MOTION:** Pres. Waddoups moved to approve the minutes of the February 28, 2012 meeting. The motion passed unanimously with Sen. McAdams, Sen. Urquhart and Sen. Weiler absent for the vote.

**S.B. 119 Alcoholic Beverage Control Act Sampling Amendments (Sen. R. Romero)**

**MOTION:** Sen. Romero moved to replace S.B. 119 with 1st Sub. S.B. 119. The motion passed unanimously with Sen. McAdams, Sen. Urquhart and Sen. Weiler absent for the vote.

**MOTION:** Sen. Romero moved to amend 1st Sub. S.B. 119 as follows:

*1. Page 20, Lines 603 through 608:*

- 603           (116) "Trade show" means a private event that is:  
604           (a) hosted by one or more industry representatives for the purpose of sampling and  
605           analyzing retail licensee samples of liquor furnished by the industry representatives in  
606           accordance with Subsection 32B-4-705(7);  
607           (b) attended by the department and retail licensees; { ~~and~~ }  
608           (c) overseen by the department { }.           ;  
(d) held in a convention center, hotel, or similar facility approved by the  
department;  
(e) attended by at least 15 individuals; and  
(f) hosted by an industry representative described in Subsection (116)(a) no more

**frequently than four times during a calendar year.**

2. *Page 24, Line 737 through Page 25, Line 743:*

- 737 (d) (i) A retail licensee sample of liquor may not exceed one liter.  
738 (ii) Notwithstanding Subsection (7)(d)(i), a retail licensee sample of the following  
may  
739 not exceed { ~~1.5 liters~~ one liter unless that exact product is only commercially  
packaged in a larger size,  
740 not to exceed 5 liters:  
741 (A) wine;  
742 (B) heavy beer; or  
743 (C) a flavored malt beverage.

3. *Page 25, Lines 744 through 753:*

- 744 (e) (i) The sampling and analysis of a retail licensee sample by a retail licensee  
under  
745 this Subsection (7) may only occur at:  
746 (A) a state store , notwithstanding Subsection 32B-2-503(7)(b) ;  
747 (B) a package agency , notwithstanding Subsection 32B-2-605(15)(b) ; or  
748 (C) a trade show.

**(ii) For a tasting and analysis held at a trade show, the department shall assess the one or more industry representatives hosting the trade show the actual cost of the department attending and overseeing the trade show and the industry representatives shall pay the cost assessed as a condition to conducting the tasting and analysis.**

- 749 { ~~(i)~~ (iii) An industry representative described in Subsection  
(7)(e)(i) } may participate in the  
750 tasting and analysis of a retail licensee sample.  
751 { ~~(ii)~~ (iv) Only an owner, manager, or other individual who purchases  
an alcoholic product  
752 for a retail licensee may on behalf of the retail licensee taste and analyze one or  
more retail  
753 licensee samples.

The motion passed unanimously with Sen. McAdams, Sen. Urquhart, and Sen. Weiler absent for the vote.

Sen. Romero introduced and explained the bill.

Spoke for the bill: Michael Szczesny, Territory Manager, Young's Market  
Jason Flower, Director of Operations, Watkins Restaurant Group

**MOTION:** Sen. Romero moved to pass 1st Sub. S.B. 119 out favorably. The motion passed unanimously.

**S.B. 182 Expungement of Drug Offenses (Sen. H. Stephenson)**

Sen. H. Stephenson introduced and explained the bill.

**MOTION:** Pres. Waddoups moved to replace S.B. 182 with 1st Sub. S.B. 182. The motion passed unanimously.

**MOTION:** Sen. McAdams moved to pass 1st Sub. S.B. 182 out favorably. The motion passed unanimously.

**S.B. 288 Disaster Recovery Service Lien Act (Sen. S. Urquhart)**

Sen. Urquhart introduced and explained the bill.

**MOTION:** Sen. Urquhart moved to replace S.B. 288 with 1st Sub. S.B. 288. The motion passed unanimously.

**MOTION:** Sen. McAdams moved to go to the next item on the agenda. The motion passed with Sen. Urquhart voting in opposition.

**H.B. 326 Serious Youth Offender Amendments (Rep. P. Ray)**

Rep. Ray introduced and explained the bill.

Spoke for the bill: Paul Boyden, Executive Director, Statewide Association of Prosecutors

**MOTION:** Sen. McAdams moved to pass H.B. 326 out favorably. The motion passed unanimously with Sen. Romero and Sen. Urquhart absent for the vote.

**MOTION:** Sen. McAdams moved to place H.B. 326 on the Consent Calendar. The motion passed unanimously with Sen. Romero and Sen. Urquhart absent for the vote.

**1st Sub. H.B. 49 Firearms Revisions (Rep. P. Ray)**

This bill was not heard.

**H.B. 239 Pawnshop Record Amendments (Rep. R. Greenwood)**

Rep. Greenwood introduced and explained the bill.

Sen. Madsen relinquished the Chair to Sen. Weiler

**MOTION:** Pres. Waddoups moved to pass H.B. 239 out favorably. The motion passed unanimously with Sen. Romero absent for the vote.

**MOTION:** Sen. McAdams moved to place H.B. 239 on the Consent Calendar. The motion passed unanimously with Sen. Romero absent for the vote.

**1st Sub. H.B. 159 Unlawful Detention Amendments (Rep. R. Wilcox)**

Rep. Wilcox introduced and explained the bill.

Spoke for the bill: Rod Layton, Director, Weber-Morgan Children's Justice Center Web

**MOTION:** Pres. Waddoups moved to pass 1st Sub. H.B. 159 out favorably. The motion passed unanimously with Sen. Madsen and Sen. Romero absent for the vote.

**H.B. 182 Signage Honoring Fallen Highway Patrol Officers (Rep. B. Wilson)**

Rep. Wilson introduced and explained the bill.

**MOTION:** Pres. Waddoups moved to pass H.B. 182 out favorably. The motion passed unanimously with Sen. Madsen, Sen. Romero and Sen. Urquhart absent for the vote.

**1st Sub. H.B. 257 Controlled Substance Database Amendments (Rep. B. Daw)**

Rep. Daw introduced and explained the bill.

**MOTION:** Sen. Romero moved to pass 1st Sub. H.B. 257 out favorably. The motion passed unanimously with Sen. Urquhart and Pres. Waddoups absent for the vote.

**1st Sub. H.B. 107 Joint Custody Modifications (Rep. G. Froerer)**

**MOTION:** Sen. McAdams moved to amend 1st Sub. H.B. 107 as follows:

1. *Page 3, Lines 75 through 76*  
*House Committee Amendments*  
*2-15-2012:*

75 (3) If the court finds that one parent does not desire custody of the child, { **the**  
**court} or**

76 ~~has attempted to permanently relinquish custody to a third party, it }~~ the court

shall take that evidence into

Spoke for the amendment: Jackie de Gaston, Lawyer

The motion passed unanimously with Sen. Urquhart and Pres. Waddoups absent for the vote.

Rep. Froerer introduced and explained the bill.

Spoke for the bill: Shukri Beseiso, Information Technology Leader  
Jared Parkinson, Citizen  
Todd Rupper, Father  
Justin Traver, Father  
Najuer Beric, Grandmother  
Starley Rupper, Citizen  
Shawn Barrett, Father  
Belki Toleman, Grandmother  
C. Milton Neeley, Citizen

Spoke against the bill: Delane England, Vice President of Operations, Eagle Forum  
Jackie de Gaston, Attorney  
Stewart Ralphs, Executive Director, Legal Aid Society

Spoke to the bill: Cherie Rawling, Citizen

**MOTION:** Sen. Madsen move to pass H.B.107 out favorably. The motion passed with Sen. Romero voting in opposition and Sen. Urquhart and Pres. Waddoups absent for the vote.

Sen. Weiler relinquished the Chair to Sen. Madsen

### **H.B. 116 Probate Code Amendments (*Rep. V. L. Snow*)**

Rep. Snow introduced and explained the bill.

**MOTION:** Sen. Weiler moved to amend H.B. 116 as follows:

*1. Page 6, Lines 155 through 162:*

- 155 (3) The legal representation of the incapacitated person by an attorney shall  
terminate  
156 upon the appointment of a guardian, unless:  
157 (a) there are separate conservatorship proceedings pending before the court;  
158 (b) the appointed guardian elects at the time to maintain the attorney's representation  
of

- 159 the incapacitated person;  
160 (c) there is a timely filed appeal of the appointment of the guardian or the  
161 determination of incapacity; or  
162 (d) **upon an express finding of good cause,** the court orders otherwise.

2. *Page 8, Lines 216 through 223:*

- 216 (3) The legal representation of the protected person by an attorney shall terminate  
upon  
217 the appointment of a conservator, unless:  
218 (a) there are separate guardianship proceedings pending before the court;  
219 (b) the appointed conservator elects at the time to maintain the attorney's  
representation  
220 of the protected person;  
221 (c) there is a timely filed appeal of the appointment of the conservator or the  
222 determination of the incapacity; or  
223 (d) **upon an express finding of good cause,** the court orders otherwise.

The motion passed unanimously with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

Spoke for the bill: Michael Jensen, Attorney and Chair of the Legislative Committee for Estate Planning, Utah Bar  
Spoke to the bill: Scott Hansen, Lewis Hansen Waldo Pleshe Flanders LLC

**MOTION:** Sen. Weiler moved to pass H.B. 116 out favorably. The motion passed unanimously with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

**H.B. 99 Background Check Fee Exemption for Firearm Purchase** (*Rep. B. Galvez*)

Rep. Galvez introduced and explained the bill.

**MOTION:** Sen. Weiler moved to amend H.B. 99 as follows:

1. *Page 1, Lines 13 through 16:*

- 13 This bill:  
14 ▶ allows a law enforcement officer currently employed and in good standing to  
15 purchase a firearm without paying the requisite background check fee as long as the  
16 dealer verifies the officer's employment and standing with the employing agency **; and**  
**▶ requires a dealer who provides a firearm to a law enforcement officer to use**  
**the NCIS system to run the background check** .

2. *Page 4, Lines 105 through 108*  
*House Committee Amendments*  
*2-6-2012:*

105           (14) ~~(a)~~ A law enforcement officer, as defined in Section 53-13-103, is exempt  
from the  
106 background check fee required in this section for the purchase of a firearm if ~~the~~ ~~dealer verifies~~  
107 ~~with the employing agency that~~ ~~←~~ ~~H~~ the law enforcement officer ~~H~~ ~~→~~ verifies current  
107a employment by providing a letter of good standing from the officer's commanding officer  
and  
107b current law enforcement photo identification. ~~[is currently employed and in good~~  
108 ~~standing as of the date of purchase:]~~ ~~←~~ ~~H~~

**(b) A dealer who provides a firearm to a law enforcement officer under this Subsection shall use the National Instant Criminal Background Check System to run the background check required by the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).**

The motion passed unanimously with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

**MOTION:** Sen. Weiler moved to amend H.B. 99 as follows:

1. *Page 4, Lines 105 through 108*  
*House Committee Amendments*  
*2-6-2012:*

105           (14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the  
106 background check fee required in this section for the purchase of a ~~personal~~ ~~firearm~~ **to be carried while off-duty** if ~~the~~ ~~dealer verifies~~  
107 ~~with the employing agency that~~ ~~←~~ ~~H~~ the law enforcement officer ~~H~~ ~~→~~ verifies current  
107a employment by providing a letter of good standing from the officer's commanding officer  
and  
107b current law enforcement photo identification. ~~[is currently employed and in good~~  
108 ~~standing as of the date of purchase:]~~ ~~←~~ ~~H~~ **This Section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.**

The motion passed unanimously with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

**MOTION:** Sen. Weiler moved to pass H.B. 99 out favorably. The motion passed with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

**H.B. 416 Guardian Ad Litem Office References (*Rep. V. L. Snow*)**

Rep. Snow introduced and explained the bill.

**MOTION:** Sen. Weiler moved to pass H.B. 416 out favorably. The motion passed with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

**MOTION:** Sen. Weiler moved to place H.B. 416 on the Consent Calendar. The motion passed with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

**MOTION:** Sen. Weiler moved to adjourn the meeting. The motion passed unanimously, with Sen. McAdams, Sen. Urquhart and Pres. Waddoups absent for the vote.

Chair Madsen adjourned the meeting at 6:17 p.m.

Minutes reported by Karen C. Allred, Secretary.

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Sen. Mark B. Madsen, Committee Chair