

Additional Support material to Legislative Committee Meeting Agenda 1-22-10

Draft Legislation language for BDR Ideas #1 – 7 (Topic-Law Enforcement)

BDR IDEA #1- CHILD FIREARM

Section 1. Chapter 62C of NRS is hereby amended by adding thereto the provisions set forth as section 2, inclusive, of this act.

Section 2. NRS 62C.060 Custody and detention of child alleged to have committed offense involving firearm; conditions and limitations on release of child; test of child for use of controlled substances; evaluation of child by qualified professional; immunity for statements made during evaluation.

1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act *against another person* that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall, if the child was taken into custody for:

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional or to submit to a test to determine whether the child is using any controlled substance, the evaluation or the results from the test must be completed not later than 14 days after the detention hearing. Until the evaluation or the test is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

6. As used in this section, "child care facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.

BDR IDEA #2 Juvenile Poaching Penalties

Section 1. Chapter 62E of NRS is hereby amended by adding thereto the provisions set forth as section 2, inclusive, of this act.

Section 2. Certain offenses concerning unlawful killing or possession of wildlife: Penalties and revocation of licenses.

1. Except as otherwise provided in this section, if a child is adjudicated delinquent for the unlawful act of killing or possession of bighorn sheep, mountain goat, elk, deer, pronghorn antelope, mountain lion or black bear in violation of NRS 501.376, the juvenile court shall:

(a) Order the child to pay a fine and an administrative assessment pursuant to NRS 62E.270. If, because of financial hardship, the child is unable to pay the fine, the juvenile court may order the child to perform community service.

(b) Order the child, or the parent or guardian of the child, or both, to pay a civil penalty pursuant to NRS 501.3855.

(c) Order to the Department of Wildlife to suspend any hunting, fishing and trapping license privileges for at least 2 years but not more than 5 years.

(d) Order that any current license issued to the child pursuant to Chapter 502 of NRS be revoked by the Department of Wildlife. The judge shall require the child to surrender to the court any license held by the child issued pursuant to Chapter 502 of NRS. The court shall, within 5 days after issuing the order, forward to the Department of Wildlife any license so surrendered by the child.

(e) The court may order the child placed on probation and impose such conditions as the juvenile court deems proper.

(f) As used in this section, "juvenile court" means:

(1) The juvenile court; or

(2) The Justice Court or municipal court if the juvenile court has transferred the case and record to the Justice Court or municipal court pursuant to NRS 62B.380.

BDR IDEA #3 - Invasive Species

Section 1. Chapter 503 of NRS is hereby amended by adding thereto the provisions set forth as section 2, inclusive, of this act.

Section 2. NRS 503.597 Introduction or removal of aquatic life or wildlife: Approval required; investigation; regulations; injurious aquatic wildlife.

1. Except as otherwise provided in this section, it is unlawful, except by the written consent and approval of the Department, for any person at anytime to receive, bring or have brought or shipped into this State, or remove from one stream or body of water in this State to any other, or from one portion of the State to any other, or to any other state, any aquatic life or wildlife, or any spawn, eggs or young of any of them.

2. The Department shall require an applicant to conduct an investigation to confirm that such an introduction or removal will not be detrimental to the wildlife or the habitat of wildlife in this State. Written consent and approval of the Department may be given only if the results of the investigation prove that the introduction, removal or importation will not be detrimental to existing aquatic life or wildlife, or any spawn, eggs or young of any of them.

3. The Commission may through appropriate regulation provide for the inspection of such introduced or removed creatures and the inspection fees therefor.

4. The Commission may adopt regulations to prohibit the importation, transportation or possession of any species of wildlife which the Commission deems to be detrimental to the wildlife or the habitat of the wildlife in this State.

5. The provisions of this section do not apply to alternative livestock and products made therefrom.

6. Any person who knowingly or intentionally introduces, attempts to introduce or causes to be introduced any injurious aquatic wildlife into any waters of this State shall be guilty of a category E felony and shall be punished as provided in NRS 193.190.

7. Any person convicted of a violation of section 6 shall be subject to a civil penalty of not less than \$25,000 or more than \$250,000. The Department shall use civil penalty monies for removal, clean up, reintroduction of game fish or other aquatic wildlife, habitat restoration, and any other costs directly, indirectly or proximately caused by said violation.

8. "Injurious aquatic wildlife" means a species that threatens the viability or abundance of protected, endangered or threatened aquatic species or game fish, the ecological stability of waters and habitat inhabited by those species through competition for resources, predation, parasitism, interbreeding with those populations, transmitting diseases, or causing physical or chemical changes to the invaded habitat.

9. "Injurious aquatic wildlife" includes the following species:

- a. Northern Pike (Esox lucius)*
- b. Snakehead (All species in the genera Ophicephalus and Channa)*
- c. Piranha (All species in the genera Serrasalmus, Serrasalmo, Pygocentrus, Teddiella, Rooseveltiella and Pygopristis)*

TALKING POINTS:

This bill addresses a substantial deficiency in existing law for the criminal and civil punishment for the crime of introduction of injurious aquatic wildlife. By matching the gravity of conduct currently prohibited by State law with criminal and civil penalties equivalent with the egregious conduct the State hopes to deter such future behavior.

CRIMINAL - A felony and gross misdemeanor provision would provide a greater disincentive to illegally introduce injurious aquatic species that pose a substantial threat of destruction to a game fish sport fishery and protected, threatened, sensitive and endangered aquatic wildlife. A greater disincentive will enhance the protection and preservation of a viable sport fishery, aquatic natural resources and water quality of the State of Nevada.

CIVIL - The tremendous magnitude of potential damages which can arise from such prohibited conduct and the cost to the State/taxpayer/sportsman for removal, clean up, habitat restoration and reintroduction of species is not sufficiently covered in existing law. A substantial civil penalty would reimburse the taxpayers/sportsman of the State for response and remediation of expenses incurred by the prohibited conduct.

BDR IDEA #4 – Raise Misdemeanor fee to same as others

Section 1. Chapter 501 of NRS is hereby amended by adding thereto the provisions set forth as section 2, inclusive, of this act.

Section 2. NRS 501.385 Unlawful acts; criminal penalties. Except as otherwise provided by specific statute:

1. Any person who:

(a) Performs an act or attempts to perform an act made unlawful or prohibited by a provision of this title;

(b) Willfully fails to perform an act required of him by a provision of this title;

(c) Obstructs, hinders, delays or otherwise interferes with any officer, employee or agent of the Department:

(1) In the performance of any duty while enforcing or attempting to enforce any provision of this title or any regulation adopted pursuant thereto; or

(2) While lawfully obtaining or attempting to obtain biological samples of wildlife, hunting, fishing or trapping data, or any other biological data or information relating to wildlife;

(d) Violates any order issued or regulation adopted by the Commission under the provisions of this title; or

(e) Having been granted a privilege or been licensed or permitted to do any act under the provisions of this title, exercises the grant, license or permit in a manner other than as specified,

↪ is guilty of a misdemeanor. An officer, employee or agent of the Department may not obtain or attempt to obtain biological samples of wildlife, hunting, fishing or trapping data, or any other biological data or information relating to wildlife on private property without the consent of the owner of the property.

2. Every person who is guilty of a misdemeanor under this title shall be punished by a fine of not less than \$50 nor more than ~~[\$500]~~ **\$1,000**, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

BDR IDEA # 5 – Interstate Compact

Chapter 171 of NRS

INTERSTATE COMPACT FOR JURISDICTION ENFORCING WILDLIFE LAWS

Text of Compact. The Interstate Compact for Jurisdiction Enforcing Wildlife Laws is as follows:

ARTICLE I—Purpose and Policy

1. The Legislature finds that law enforcement has been impaired along the contiguous boundary of this State because of remote wilderness locations, limited remote law enforcement forces and multiple remote access points in which a person committing a criminal act can flee to the bordering State.

2. The Legislature intends that a person committing an act which is illegal in this State or a bordering State be apprehended by either State for certain criminal acts committed when encountered within 50 air miles of the contiguous boundary of this State.

3. The Interstate Compact for Enforcement of Wildlife Laws is enacted to promote expeditious and effective law enforcement service to the public, and assistance between the members of the Department of Wildlife and those agencies, in areas adjacent to the boundary of this State by providing for enforcement of laws with regard to certain acts committed on either side of the boundary line with an adjoining state.

ARTICLE II—Definitions

As used in this Compact, unless the context otherwise requires, “party state” means a state which has enacted this Compact.

ARTICLE III—Concurrent Jurisdiction

1. If conduct is prohibited by one of the adjoining party states and the prohibited conduct occurred within the boundary of that State, law enforcement officers in either state who have jurisdiction over similar criminal offenses committed, shall, within 50 air miles of a common interstate boundary have concurrent jurisdiction to arrest, prosecute and try offenders for the prohibited conduct committed if all the following conditions are met.

A. The officer is providing, or attempting to provide, law enforcement services pursuant to either of the following:

(1) In response to a request for services initiated by a member of the Department of Wildlife.

(2) In response to a reasonable belief that emergency law enforcement services are necessary for the preservation of life, and a request for services by a member of the Department of Wildlife is impractical to obtain under the circumstances. In those situations, the officer shall obtain authorization as soon as practical.

B. The officer is providing, or attempting to provide, law enforcement services for the purpose of assisting a member of the Department of Wildlife in response to misdemeanor, gross misdemeanor or felony wildlife criminal activity, pursuant to the authority of a peace officer as provided in NRS 289.280, or, in the event of emergency incidents or other similar public safety problems, whether or not a member of the Department is present at the scene of the event.

C. The officer receives no separate compensation from this state for providing law enforcement services within this state.

D. The adjoining state employing the officer confers similar rights and authority upon a member of the Department who renders assistance within that state.

E. Notwithstanding any other provision of law, any person who is acting as a peace officer in this state in the manner described in this section shall be deemed to have met the requirements of Chapter 289 of the Nevada Revised Statutes and the selection and training standards of the Commission on Peace Officer Standards and Training if the officer has completed the basic training required for peace officers in his or her state.

2. This Compact does not authorize:

(a) Prosecution of any person for conduct which is lawful in the state where it was committed.

(b) Any conduct prohibited by a party state.

3. If any claim, including a counterclaim or cross-claim, is brought in a civil action which is filed in a party state and which is:

(a) Brought against a present or former officer or employee of another party state or an agency or political subdivision of that other party state; and

(b) Based on any alleged act or omission that is related to his official duties or employment and conducted under the authority of this Compact,

↳ the claim is subject to the conditions and limitations on civil actions, including, without limitation, the provisions regarding sovereign immunity, established by the party state in which that officer or employee is or was an officer or employee.

ARTICLE IV—Ratification

This Compact is ratified by enactment of the language of this Compact, or substantially similar language expressing the same purpose, by at least two states of which have a common boundary.

DRAFT

BDR IDEA #6 – STATE LACEY ACT

Section 1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is unlawful for any person to import, export, transport, sell, receive, acquire, purchase or possess any wildlife that is taken, possessed or sold in violation of any law or regulation of:

- (a) The United States;*
- (b) Another state or territory;*
- (c) An Indian tribe; or*
- (d) A foreign country.*

2. Each violation of this section is a separate offense, and each such offense shall be deemed to have been committed in the location where the violation first occurred and in any location in this State in which the defendant was in possession of the wildlife.

BDR IDEA #7 – SIMPLIFY BOATING LAW

Section 1. Chapter 488 of NRS is hereby amended by adding thereto the provisions set forth as section 2, inclusive, of this act.

Section 2. NRS 488.550 Collisions, accidents and other casualties.

1. The operator of a vessel involved in a collision, accident or other casualty shall, so far as he can do so without serious danger to his own vessel, crew and passengers, render to other persons affected by the casualty such assistance as may be practicable and as may be necessary to save them from or minimize any danger caused by the casualty, and shall give his name, address and the identification of his vessel in writing to any person injured and to the owner of any property damaged in the casualty.

2. In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the casualty results in death or injury to a person or damage to property in excess of ~~\$500~~ \$2,000, shall file with the Department a full description of the casualty, including, without limitation, such information as the Commission may, by regulation, require.

3. Upon receipt of a claim under a policy of insurance with respect to a collision, accident or other casualty for which a report is required by subsection 2, the insurer shall provide written notice to the insured of his responsibility pursuant to subsection 2 to file with the Department a full description of the casualty.

4. Upon receipt of a request for repair with respect to a collision, accident or other casualty for which a report is required by subsection 2, the person who repairs the vessel shall provide written notice to the person requesting the repairs of the requirement set forth in subsection 2 that the operator file with the Department a full description of the casualty.

5. The insurer and the person who repairs a vessel shall transmit a copy of each notice they provide pursuant to subsections 3 and 4, respectively, to the Department at the same time the notice is provided to the insured or person requesting the repairs.

6. The Department shall investigate or cause to be investigated a collision, accident or other casualty involving a vessel which results in death or substantial bodily injury and shall gather evidence to be used in the prosecution of a person charged with violating a law in connection with the collision, accident or other casualty. The Department may investigate or cause to be investigated a collision, accident or other casualty involving a vessel which does not result in death or substantial bodily injury and may gather evidence to be used in the prosecution of a person charged with violating a law in connection with the collision, accident or other casualty.