



February 29, 2012

2011-2013 Vol. 8

## GENERAL SESSION

February 22, 2012

### **Program Topics:     Utah's New Tobacco Issues**

**Presented by:**     **Judiciary/Law Enforcement & Criminal Justice/  
                              Political Subdivisions, Revenue & Taxation/  
                              Transportation/Government Operations**

**Director:**     **Tibby Milne**

**Chair:**       **Marilyn Larsen**

**Speakers:**     **Michael Wyler – American Cancer Society's Cancer Action Network  
                              (ACS CAN)**

**Rep. Bradley G. Last (R) Dist 71, Eastern Washington County;  
                              sponsor, HB245 Amendment of Definition of  
                              Smoking in Utah Indoor Clean Air Act**

**Rep. Paul Ray (R) Dist 13, Davis County (Clinton, Sunset, West Point,  
                              Clearfield); sponsor, HB95 Retail Sale of Tobacco Products**

**Michael Wyler**, offering introductory remarks, called Rep. Last and Rep Ray friends of cancer prevention. Briefly reviewing each bill of their bills, he began by citing **HB245** as one that would deal with a tobacco issue not covered by Utah's existing Indoor Clean Air Act. The Act had no provision for dealing with either "heated tobacco products" (hookah pipes), or "e-cigarettes." This bill amends the definition of smoking in the Utah Indoor Clean Air Act to prohibit the use of e-cigarettes and hookah pipes in places of public access. **HB245** will extend exceptions to the prohibition to one particular hookah bar and one smoke shop with a five-year grandfather clause.

Responding to questions, he said the U.S. Federal Drug Administration (FDA) has

established the fact that e-cigarettes do not simply emit harmless water vapor. The vapor contains carcinogenic matter & nicotine; in essence, a lower emission of second-hand smoke. The Transportation Department has banned its use on airplanes. The U.S. Navy has banned its use on submarines.

**Rep. Last** said in 2007, Utah's legislature thought it had eliminated all indoor smoking issues in the state. Surprisingly, there was little public outcry even from the tavern and bar industry. Now, however, the existence of hookah pipes and e-cigarettes have raised new concerns. He stressed the need for **HB245** in amending the old bill, now that the indoor smoking hazard includes these new products.

Responding to questions, Rep. Last said smoke shops prefer to call the smoking of e-cigarettes, “vaping.” He also noted that hookah smoking is a social activity and almost always done indoors, usually at a hookah bar. His bill does not ban indoor non-tobacco (shredded herbs) hookah use. Acknowledging that hookah bars and vaping are not yet huge problems in the state, Rep. Last said he would rather restrict them tightly now rather than have to revisit the issue some years hence.

**Rep. Ray** gave background on how he, a former narcotics agent, came to sponsor **HB95**. City agents from across the state have asked for legislation to assist cities in uniformly regulating their approach to smoke shops, indicating a patchwork solution wasn’t working. “Is there really enough tobacco business,” he asked, “to sustain 14 smoke shops in Weber County?” Answering his own question, he indicated drugs are what the shops are really selling. And the most prevalent drug coming from these shops is “spice.”

Last year, Utah made it illegal to sell the underlying analog drug from which spice is made. Rep. Ray said his own personal and professional experiences confirm to him that spice is still being sold illegally in smoke shops. **HB95** creates certain restrictions on the location of retail tobacco specialty business and the sale of tobacco paraphernalia. Under its provisions, a person under the age of 18 may not enter a smoke shop. A smoke shop cannot be located within 1,000 feet of where children would reasonably be expected to congregate.

Responding to questions, Rep. Ray said penalties for infractions would range from evaluation & fines to incarceration. Penalties would also not be the same for buyers as for sellers. Drug cartels, he said, are now trying to move into the growing spice trade.

**Reported by Pam Grange**

## **General Session II**

**Program Topics:**     **Utah’s Seismic Vulnerability (Earthquake Readiness)**  
                                 **Utah Drivers’ Vulnerability (Texting)**

**Presented by:**     **Judiciary/Law Enforcement & Criminal Justice/  
                                 Political Subdivisions, Revenue & Taxation/  
                                 Transportation/Government Operations**

**Director:**     **Tibby Milne**  
**Chair:**         **Marilyn Larsen**

**Speakers:**     **Rep. Larry B. Wiley (D) Dist. 31, Salt Lake County (Sugarhouse);  
                                 sponsor, HB279 Utah Seismic Hazard Inventory**

**Roger Evans – Chair, Utah Seismic Safety Commission**

**Sen. Lye W. Hillyard (R) Dist. 25, Cache, Rich Counties;  
sponsor, SB98 Amendments to Prohibition on Using  
a Handheld Wireless Communication Device  
while Operating a Vehicle**

**Rep. Wiley** said he has been working on school seismic readiness legislation for five years, and every year it seems to fall on deaf ears. He does recognize it will cost a lot of money to evaluate the seismic readiness of public schools in the state. But, he argued, it can be done incrementally. **HB279** only calls for a study to build an inventory identifying the vulnerability of K-12 school buildings. Higher education and private schools would not be included.

The bill calls for conducting a seismic evaluation of each facility used by school districts and charter schools, using specified standards. It creates and specifies the duties of the Public School Seismic Safety Committee. It also directs the State Board of Education to adopt rules regarding it. **HB279** does not call for any money to bring schools up to code. The Committee would work with the school districts to prioritize their buildings for retrofitting. It would then be up to the districts to finance the retrofits.

Approximately 80% of Utah's schools are located along the Wasatch Front, a high-risk seismic area. A preliminary study indicates over half of Utah's schools were built before 1975, which was when seismic regulations were first introduced into building codes. The Salt Lake City School district is an example of having planned well for seismic safety when rebuilding its schools. There are only one or two schools in Salt Lake about which there is still concern.

Rep. Wiley mentioned a course he attended in Maryland three years ago. A professor from the University of California said the Salt Lake area was long overdue for a sizeable earthquake. It is going to happen, he said. We need a public outcry, he continued, to get the legislature's attention

on this issue. The Governor's Utah Seismic Safety Commission agrees it is important. Unfortunately, the issue still gets little traction with the legislature. The cost of **HB279** is about \$500,000, which is less than \$1 per student. We take precautions, he noted, to get Utah's 600,000 children safely to and from school. But, remember, they are physically *in* school for 6-8 hours.

**HB279** is now in Executive Appropriations Committee, waiting to be allocated money, which would be appropriated from the General Fund. Money would not come from the Uniform School Fund or other funds budgeted for schools. Rep. Wiley asked for WSLC members to contact members of the Appropriations Committee to urge appropriation of money for **HB279**.

**Roger Evans** directed the audience to two websites. One, the *Utah Seismic Safety Commission (SSC)*, can be found at [www.ussc.utah.gov/](http://www.ussc.utah.gov/). It contains a study funded by The Federal Emergency Management Agency (FEMA), titled "Utah Students at Risk: The Earthquake Hazards of School Buildings." It is a preliminary assessment of Utah schools.

The second website, *Utah.Gov: The Official Website of the State of Utah*, can be found at [www.utah.gov/index.html](http://www.utah.gov/index.html). In the search box, ask for "Incremental Seismic Rehabilitation of School Buildings (K-12)." This report describes an approach to retrofitting our schools that is affordable and minimally disruptive.

Responding to questions, Mr. Evans said Patti Harrington, former Superintendent of Public Instruction, believes the problem is best addressed by local school districts. Mr. Evans disagrees. He said studies indicate the

Wasatch Front is on a 1,300-year cycle and we are probably due for a major earthquake.

**Sen. Hilliard** told about his experience several years ago when working on the original bill that banned texting while driving. Realtors came to him and said, "Sen. Hilliard, would you exempt the realtors? We ought to be able to text while driving." He responded by asking if they thought he could really argue that on the senate floor. On the other hand, he is encouraged by the fact that some parents have told him their children now watch and remind them not to text while driving.

Interestingly, there was a loophole in the original texting law. It is not a violation to write a text message, *if* the message isn't actually sent. **SB98**, the senator said, corrects that problem. During accident investigations, police can determine what functions have recently been used on a cell phone. Because texting while driving has been found to be more dangerous even than drunk driving, **SB98** makes the penalty for it comparable to the one for drunk driving. One difference, however, is that drunk

drivers who kill *will* have their driving licenses taken away for 90 days. If a texting driver kills someone, the court *may* take away the license, but isn't required to do so.

**SB98**, in essence, expands actions falling within the scope of the original bill. For example, it forbids any action with a handheld device that involves sending messages out or using email while driving. It allows answering a call, but forbids originating a call. The senator expects a fight over some of these expansions. Although more restrictions could be imposed, he believes it is more practical to take things one step at a time.

To those who may argue this is an infringement on individual rights, Sen. Wiley responded, "You can do whatever you want in your home. But when you are driving a car 70 miles an hour down the freeway towards me and my family, I want to make sure you are paying attention to driving."

**Reported by Stuart Gygi**

**NOTE:**

*The Education Committee presented Resolutions to WSLC general membership in support of*  
**SB119** Resolution on Alcoholic Beverage Control Act Sampling Amendments **(Resolution Passed)**  
**SB32** Breast Cancer Prevention Amendments **(Resolution Passed)**

**THIS BULLETIN IS A PUBLICATION OF  
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