

Committee: House Judiciary

Monday, February 22, 2021 10:00 AM

Roll Call

Present: Rep. Aylward, Rep. Barthel, Rep. Cwach, Rep. Odenbach, Rep. Pischke, Rep. Pourier, Rep. Rehfeldt, Rep. Reimer, Rep. Soye, Rep. St. John, Rep. Stevens, and Rep. Hansen

Present (Remote): Rep. Sue Peterson

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Hansen

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 17TH

Moved by: Pischke
Second by: Rehfeldt
Action: Prevailed by Unanimous Consent

HB 1223 : prohibit certain social media censorship.

Presented by: Representative Phil Jensen
Opponents: Carl Szabo, Net Choice, Washington DC
Others: Samantha Fillmore, Heartland Institute, Chicago, Illinois

MOTION: DEFER HB 1223 TO THE 41ST LEGISLATIVE DAY

Moved by: Stevens
Second by: Cwach
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS HB 1223

Moved by: Odenbach
Second by: Soye
Action: Prevailed by roll call vote (8-5-0-0)

Voting Yes: Aylward, Odenbach, Sue Peterson, Pischke, Rehfeldt, Reimer, Soye, and St. John

Voting No: Barthel, Cwach, Pourier, Stevens, and Hansen

HB 1178 : rescind the statute of limitations for any civil cause of action arising out of childhood sexual abuse.

Presented by: Representative Peri Pouier
Proponents: Marci Hamilton, CEO & Legal Director, Child USA, Washington Crossing, PA
Pam Cole, self, Sioux Falls, South Dakota
Remi Bald Eagle, self, Eagle Butte
Kevin Killer, President of the Oglala Sioux Tribe
Opponents: Justin Bell, St. Joseph Indian School, Chamberlain (Handout(s) 1)
Brett Koenecke, SD Synod Evangelical Lutheran Church in America, Pierre, South Dakota

Doug Abraham, American Property Casualty Insurance Association, Chicago

MOTION: DEFER HB 1178 TO THE 41ST LEGISLATIVE DAY

Moved by: Barthel
Second by: Reimer
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: WITHOUT RECOMMENDATION HB 1178

Moved by: Pourier
Second by: St. John
Action: Failed by roll call vote (2-10-1-0)

Voting Yes: Pourier and St. John

Voting No: Aylward, Barthel, Odenbach, Sue Peterson, Pischke, Rehfeldt, Reimer, Soye, Stevens, and Hansen

Excused: Cwach

Revert to previous motion

MOTION: DEFER HB 1178 TO THE 41ST LEGISLATIVE DAY

Moved by: Barthel
Second by: Reimer
Action: Prevailed by roll call vote (10-2-1-0)

Voting Yes: Aylward, Barthel, Odenbach, Sue Peterson, Pischke, Rehfeldt, Reimer, Soye, Stevens, and Hansen

Voting No: Pourier and St. John

Excused: Cwach

HB 1181 : authorize the revival of certain civil claims.

Presented by: Representative Peri Pouier

Proponents: Marci Hamilton, CEO & Legal Director, Child USA, Washington Crossing, PA
Pam Cole, self, Sioux Falls, South Dakota
Remi Bald Eagle, self, Eagle Butte
Ross B Garelick Bear, Crow Creek Sioux Tribe, Rosebud Sioux Tribe and Yankton Sioux Tribe
Kevin Killer, President of the Oglala Sioux Tribe
Alice Hanan, Staff Attendant, Child USA, Washington Crossing PA

Opponents: Justin Bell, St. Joseph Indian School, Chamberlain
Brett Koenecke, SD Synod Evangelical Lutheran Church in America, Pierre, South Dakota
Doug Abraham, American Property Casualty Insurance Association, Chicago

MOTION: DEFER HB 1181 TO THE 41ST LEGISLATIVE DAY

Moved by: Rehfeldt
Second by: Barthel
Action: Prevailed by Majority Members Elect (9-2-2-0)

Voting Yes: Aylward, Barthel, Odenbach, Sue Peterson, Pischke, Rehfeldt, Soye, Stevens, and Hansen

Voting No: Pourier and St. John

Excused: Cwach and Reimer

HB 1186 : revise certain provisions regarding sentencing.

Presented by: Representative Tom Pischke

MOTION: TO TABLE HB 1186

Moved by: Barthel
Second by: Pischke
Action: Prevailed by roll call vote (9-0-4-0)

Voting Yes: Aylward, Barthel, Odenbach, Sue Peterson, Pischke, Rehfeldt, Soye, Stevens, and Hansen

Excused: Cwach, Pourier, Reimer, and St. John

HB 1160 : prohibit driving a motor vehicle while exceeding the legal limit of delta 9-tetrahydrocannabinol.

Presented by: Representative Mary Fitzgerald

Proponents: John Fitzgerald, Lawrence County State's Attorney
Aaron P Scheibe, South Dakota State's Attorneys Association, Pierre
Jason Husby, Department of Public Safety, Pierre, South Dakota

Opponents: Emmitt Reistroffer, Johnson Properties LLC, Sioux Falls, South Dakota
(Handout(s) 1,2)
Justin Bell, South Dakota Association of Criminal Defense Lawyers, Pierre, South Dakota
John Fitzgerald, Lawrence County State's Attorney

MOTION: DEFER HB 1160 TO THE 41ST LEGISLATIVE DAY

Moved by: Stevens
Second by: Rehfeldt
Action: Prevailed by Majority Members Elect (11-1-1-0)

Voting Yes: Aylward, Barthel, Odenbach, Sue Peterson, Pischke, Pourier, Rehfeldt, Reimer, St. John, Stevens, and Hansen

Voting No: Soye

Excused: Cwach

HB 1061 : prohibit smoking and consuming marijuana and its derivatives in a motor vehicle and create a penalty therefor.

Presented by: Representative Mary Fitzgerald
Proponents: John Fitzgerald, Lawrence County State's Attorney

MOTION: AMEND HB 1061

1061G

On the Introduced bill, delete the previously adopted amendment (1061B).

On page 1, line 1, after "smoking" insert " and consuming"

On page 1, line 7, after "person " delete "occupying, "

On page 1, line 7, after "operating" delete the comma

On page 1, line 8, after "smokes" insert " or consumes"

On page 1, line 9, after "section" insert " and § 22-42-25"

On page 1, after line 11, insert "

Section 2. That a NEW SECTION be added:

22-42-25. Passenger--Use of marijuana--Motor vehicle--Misdemeanor.

While a motor vehicle is located upon a public highway or the right-of-way of a public highway, it is a Class 2 misdemeanor if any person occupying a motor vehicle smokes marijuana or marijuana concentrate while the vehicle is being operated.

"

On page 1, line 12, after "resin." delete "Section 2. That § 34-20G-18 be AMENDED.

"

On page 1, line 13, after "AMENDED." delete "34-20G-18. "

On page 1, line 13, after "34-20G-18. " delete "[Effective July 1, 2021] Unauthorized conduct. "

On page 1, line 13, after "conduct. " delete "

This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in, the following conduct:

- (1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;
- (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;
- (3) Smoking cannabis or cannabis products:
 - (a) On any form of public transportation; or
 - (b) In any public place or any place that is open to the public; or
 - (c) In violation of § 22-42-24.
- (4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis, except that a registered qualifying patient or nonresident cardholder is not considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment."

Moved by: Stevens

Second by: Barthel

Action: Prevailed by voice vote

MOTION: DO PASS HB 1061 AS AMENDED

Moved by: Stevens

Second by: Barthel

Action: Prevailed by Majority Members Elect (11-1-1-0)

Voting Yes: Aylward, Barthel, Cwach, Odenbach, Sue Peterson, Rehfeldt, Reimer, Soye, St. John, Stevens, and Hansen

Voting No: Pischke

Excused: Pourier

MOTION: ADJOURN

Moved by: Reimer

Second by: Pischke

Action: Prevailed by Unanimous Consent

Nancy Bugay, Committee Secretary

/s/ JON HANSEN
Jon Hansen, Chair