

J. LARRY MITCHELL
STATE REPRESENTATIVE
13th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

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Gaming & Pari-Mutuel

House Judiciary Committee Meeting Minutes

5.9.18

Vice-Chair Smith called the meeting to order at 12:06 p.m. Members present include: Chair Mitchell, Reps J. Johnson, Brady, Paradee, Potter, Smyk, Spiegelman, and Wilson.

Vice Chair Smith introduced **HB 375 w/ HA 1 AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PROHIBITED CONDUCT IN CONNECTION WITH LARGE-CAPACITY MAGAZINES.**

Chair Mitchell, the prime sponsor of the bill, explained that the bill prohibits the sale and ownership of large capacity magazines. The amendment increases the capacity for magazine rounds prohibited in the bill from 10 rounds to 17 rounds. He also made clear that the amendment makes exemptions to prohibitions for those who hold a concealed deadly weapons license and other groups with prior law enforcement experience.

Chair Mitchell then explained that a violation the bill results in a class A misdemeanor for a first offense and a class G felony for a second offense.

Chair Mitchell shared that he received many calls in opposition to the bill, mostly for the reason that it will not change the landscape of gun violence in Delaware. He believed that the bill will make an impact on gun violence and implement sensible protections surrounding firearms.

Vice-Chair Smith opened the floor to committee members.

Rep. J. Johnson asked Chair Mitchell if his previous law enforcement background affected his reasoning for drafting the bill.

Chair Mitchell shared that in his thirty years of experience in law enforcement, he has experienced the impacts of gun violence. He made clear that this legislation is important to him as it will better protect Delawareans.

Rep J. Johnson asked Chair Mitchell to speak about the exemptions on the bill for retired police officers.

Chair Mitchell explained that many of his retired law enforcement colleagues continue to receive training similar to current officers and regular background checks. Retired law enforcement officers are provided a concealed carry permit upon their retirement and Chair Mitchell believed the amendment includes a reasonable exemption for this responsible population of firearm owners.

Rep. Potter requested to be a co-sponsor on the bill.

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Rep. Smyk shared his concerns with the fiscal impact this bill may cause because manufacturers could conduct less business in Delaware due to the magazine threshold included in the bill. He exclaimed that he cannot support the bill because of the definitive magazine threshold, regardless of the make or model of the firearm.

Chair Mitchell replied that the intention of the bill is to reduce the amount of magazines. Chair Mitchell added that he reached out to gun shop owners and was told that the Glock and the Smith and Wesson were the top sellers and hold magazine rounds under the threshold detailed in the amendment.

Rep. Spiegelman displayed a 3D printed plastic magazine cartridge and shared concerns that someone intent on mass violence using a firearm likely will not be deterred as a result of the bill. He added that driving across state lines where large magazines are available adds to the lack of a deterrent effect that this bill aims to make. As a result, Rep. Spiegelman said that he will not support the bill.

Chair Mitchell replied that other states are more lenient on gun legislation but the intent of the bill is to spark change in Delaware first.

Vice-Chair Smith opened the floor to public comment.

State Prosecutor Sean Lugg from the Department of Justice was in the favor of the bill. He believed the bill will reduce the propensity for violent acts associated with firearms by some degree.

Smyrna resident Paul Johnston was in opposition of the bill as he believed it will not stop acts of gun violence and only harms law-abiding gun owners.

Deputy Secretary Kimberley Chandler from the Department of Safety and Homeland Security supported the bill because it takes measures to protect Delawareans.

Carroll Boone opposed the bill because he believes it discriminates against law-abiding gun owners.

Fred Calhoun from the Delaware State Lodge Fraternal Order of Police stated the organization's support of the bill, especially because of the mitigating amendments.

Rick Armitage, representing the National Rifle Association, opposed the bill. He cited a study by the Rand Corporation demonstrating that large capacity magazines prohibition increases magazine prices, and provided inconclusive evidence towards deterring firearm violence.

Bill Oberle from the Delaware State Troopers Association supported the bill and urged the committee for its release.

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Scott Kidner, on behalf of the National Shooting Sports Foundation, opposed the bill because of the arbitrary magazine prohibition and lack of related data suggesting that this bill will deter gun violence.

President Jeff Hague of the Delaware State Sportsmen Association opposed the bill because he believed it will not deter gun violence as suggested by effect of similar legislation in other states.

Vice-Chair Smith asked Chair Mitchell to make final remarks.

Chair Mitchell urged the committee to release the bill for a full debate in the House Chamber.

Vice-Chair Smith requested a motion

A motion was made by Rep. J. Johnson and seconded by Rep. Potter to release **HB 375 w/ HA 1** from committee. Yes-4 (Mitchell, Smith, J. Johnson, Potter) No-2 (Smyk, Spiegelman); Absent-5 (Brady, Lynn, Paradee, Outten, Wilson). HB 366 was later released from committee with an F=0, M=6, U=0 vote.

Vice-Chair Smith introduced **SB 146 w/SA 1 and SA 2 AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JUVENILE EXPUNGMENTS.**

Sen. Lawson, the prime sponsor of the bill, explained that the bill allows for immediate expungement of juvenile felony records when the defendant is found not guilty.

Rep. J. Johnson thanked Sen. Lawson for sponsoring the bill.

Rep. Potter requested to be added as an additional sponsor to the bill.

Vice-Chair Smith opened the floor for public comment.

Lisa Minutola, Chief of Legal Services at the Office of Defense Services supported the bill and thanked Sen. Lawson for his sponsorship. She explained that the bill extends an existing ability for judges to expunge records from the bench to felonies. She added that the bill will continue to remedy unnecessary barriers to juvenile justice reform.

Rep. Spiegelman asked in what cases would a judge decide to withhold their ability to expunge from the bench if they judge do not use their discretion to expunge a felony record.

Ms. Minutola replied that the judge may have concerns with the entirety of a juvenile's record, which may take time, thus a judge may wait to render an expungement.

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Ziondra Russ, a 24-year old explained that she received felony charges at age of 11 but they were dismissed. Her record was not expunged for until 12 years later. She believed there were missed opportunities in her adult life because of the charges that remained on her record. She supported the bill and wished it was implemented as law earlier so she could have benefited from it.

Vice-Chair Smith requested a motion.

A motion was made by Rep. Brady and seconded by Rep. J. Johnson to release **SB 146 w/ SA1 and SA2** from committee; motion carried. Yes-7 (Mitchell, Smith, J. Johnson, Brady, Potter, Smyk, Spiegelman); No-0; Absent-4 (Lynn, Paradee, Outten, Wilson). SB 146 w/ SA 1 and SA2 was reported out of committee with an F=0, M=7, U=0 vote.

Vice-Chair Smith introduced **HB 404, AN ACT TO AMEND TITLES 6 AND 8 OF THE DELAWARE CODE RELATING TO REQUIREMENTS FOR REGISTERED AGENTS WITH RESPECT TO ENTITIES AND ENTITY FILINGS WITH THE DEPARTMENT OF STATE.**

Vice-Chair Smith introduced Kristopher Knight, Deputy Secretary of State and Director of Delaware Division of Corporations to speak about the bill.

Deputy Secretary Knight explained that the business entity registry consists of about 1.3 million businesses, and 1.1 million of those are managed by online registered agents. Out of those 1.1 million, about 200,000 entities are represented by agents that are not online agents. For the sake of consistency, Secretary Knight believed this bill better protects the registry by regulating all agents through the Secretary of State's office and the rules set there.

Rep. Potter asked how the tracking of registered agents occurs.

Secretary Knight explained that a registered agent must have a business license to operate in Delaware; however, that is different from a corporation forming in Delaware but not operating in the state. Secretary Knight explained that this bill requests that information from all registered agents falls in line with regulations set by the Secretary of State's office to ensure a business is allowed to do business in the United States.

Rep. Kowalko shared concerns that the Secretary of State could be inadvertently exempt from the Freedom of Access Act (FOAA) responsibilities under Title 29 of the Delaware Code. He requested time to speak with Deputy Secretary Knight about his concerns.

Deputy Secretary Knight ensured Rep. Kowalko that the bill does not intend to make exemptions for the Secretary of State and FOAA requirements.

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Rep. Spiegelman shared concerns with broad language throughout several sections of the bill and believed that the Secretary of State may be awarded a disproportionate amount of power in the regulatory process.

Vice-Chair Smith explained that the Secretary of State's office is working on behalf of the public to hold the 200,000 agents who are not being held to the already existing standards for the 1.1 million registered online agents in Delaware.

Deputy Secretary Knight added that the bill is about consistency.

Rep. Spiegelman asked what will happen to the 200,000 agents if the bill becomes law.

Secretary Knight explained that now the Secretary of State may refuse to accept filings from those agents on behalf of entities because they are not following regulations followed by the other 1.1 million agents in Delaware.

Rep. Potter asked if the bill only creates more checks and balances but does not broaden the Deputy Secretary's authority.

Vice-Chair Smith affirmed his understanding.

Rep. Smyk asked if the federal government has recommendations in how to deal with issues outlined in the bill as they may be related to matters of national security.

Deputy Secretary Knight explained that his office has not been in contact with the federal government about the bill.

Rep. Smyk asked if there is an existing need for this legislation and if specific problems occurred to influence the inception of the bill.

Deputy Secretary Knight explained that the bill addresses quality control gaps noticed during reevaluation of his department's procedures and regulations.

Vice-Chair Smith opened the floor for public comment.

Tom Collins, Executive Vice President of Government Relations at the Delaware Bankers Association (DBA) opposed the bill and echoed Rep. Spiegelman's concerns about the broad language in the bill.

Rep. Smyk asked if the Vice-Chair spoke to the DBA prior to drafting the bill.

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Vice-Chair Smith said that she had not, but requested conversation between the DBA and the Secretary's office over the legislative break.

Rep. Smyk explained that he would support the bill due to the Vice-Chair's word about further discussion between stakeholders.

Vice-Chair Smith requested a motion.

A motion was made by Rep. Brady and seconded by Rep. Potter to release **HB 404** from committee; motion carried. Yes-9 (Mitchell, Smith, J. Johnson, Brady, Paradee, Potter, Smyk, Spiegelman, Wilson); No-0; Absent-2 (Lynn, Outten). HB 404 was reported out of committee with an F=0, M=8, U=1 vote.

Vice-Chair Smith introduced **SB 171 AN ACT TO AMEND TITLE 16, TITLE 21, AND TITLE 29 OF THE DELAWARE CODE RELATING TO FREE IDENTIFICATION DOCUMENTS FOR INDIVIDUALS BEING RELEASED FROM PRISON.**

On behalf the prime sponsor, Sen. Henry, Rep. J. Johnson read the synopsis of the bill. The bill requires the Department of Corrections to provide released offenders with a Delaware Personal Credential Card, which entitles them to a free certified copy of their birth certificate and one identification card or driver's license. The bill is influenced by the I-ADAPT re-entry program which provides individuals in I-DAPT with a Prisoner Re-Entry card, valid for a year, that entitles an individual to a free copy of their birth certificate (if born in Delaware), and a free identification card.

Rep. J. Johnson explained that one of the greatest obstacles of formerly incarcerated individuals is identification upon release. He added that this was emphasized in a reentry simulation that occurred this year.

Chair Mitchell supported the bill due to his participation in in the aforementioned simulation.

Rep. Spiegelman asked about the fiscal impact related to the bill.

Rep. J. Johnson explained that the Department of Health and Social Services and the Department of Motor Vehicle will not receive payment for the identification card.

Chair Mitchell requested that Rep. Spiegelman consider the greater cost to society for former offenders to become recidivists due to the barriers in their reentry to society.

Vice-Chair Smith requested a motion.

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A motion was made by Rep. Brady and seconded by Chair Mitchell to release **SB 171** from committee; motion carried. Yes-9 (Mitchell, Smith, J. Johnson, Brady, Paradee, Potter, Smyk, Spiegelman, Wilson); No-0; Absent-2 (Lynn, Outten). SB 171 was reported out of committee with an F=0, M=9, U=0 vote.

Vice-Chair Smith concluded the meeting at 1.14 p.m.

Respectfully Submitted by:

Eric Hastings

Speaker List:

Jeff Hague — President, Delaware State Sportsmen's Association
Rick Armitage — National Rifle Association
Sean Lugg — State Prosecutor, Delaware Department of Justice
Kimberley Chandler — Deputy Secretary, Delaware Department of Safety and Homeland Security
Fred Calhoun — President, Delaware State Lodge Fraternal Order of Police
Bill Oberle — Delaware State Troopers Association
Carroll Boone — Delaware Gun Rights
Paul Johnston — Delaware Gun Rights
Scott Kidner — National Shooting Sports Foundation
Lisa Minutola — Chief of Legal Services, Delaware Department of Defense
Ziondra Russ
Tom Collins — Delaware Bankers Association