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FLOOR DEBATE

January 31, 2003 LB 30

SENATOR CHAMBERS: Mr. President, members of the Legislature, I also support Senator Beutler's amendment. I think it is very appropriate and it goes right to one of the evils that Senator Schrock and maybe others have mentioned before where there are some scofflaws who continuously or continually engage in these violations. I have a couple of questions I want to ask Senator Schrock that are not on that amendment but go to the green copy of the bill. Senator Schrock, under this bill a person who violates the cease and desist order shall be guilty of either a Class IV misdemeanor or subject to the civil penalty. If the misdemeanor is the charge, you cannot engage in this civil activity. You cannot deal with all of these other things that follow the word "or" in line 7. So the question I would ask is this. Is the goal to convict the bad person of a very minor crime or is it felt that these civil penalties will be a greater stick to encourage obedience?

SENATOR SCHROCK: We want the penalties to be a greater stick. We want a bigger stick to use on these people and...

SENATOR CHAMBERS: I'm just going to make a suggestion, not that you have to follow it, but from the discussion as I've seen it. If I were trying to stop this kind of activity, perhaps I could persuade a county attorney, if I have enough influence...and I'm not saying anybody is corrupt...to charge me with a misdemeanor. A misdemeanor can be prosecuted by a city attorney if there is one. If that is done, I can walk away laughing. I think it might be better to do away with the misdemeanor altogether. Before you amended the law, as I read it, the only punishment for a violation was the Class IV misdemeanor. Now that a more comprehensive and meaningful approach is being taken, I would just discard the misdemeanor because putting that on this person's record is not going to have any consequence because it doesn't prohibit the person from doing whatever he or she is doing for a living. If that is done, then I would look at the matter of the civil penalty and just wonder why there wouldn't be a minimum established, because when it says up to \$5,000 per day, the courts look at the minimum sentence to determine how serious the Legislature takes a violation, and the Supreme Court has said that on numerous occasions. So if you impose a civil