

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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FLOOR DEBATE

April 1, 2003            LB 265

if there is a reckless disregard for complying with the law. That is the way I read this. Do you see anything in here which would say that the sheriff would be liable...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...in case of negligent issuance of a permit?

SENATOR BRASHEAR: I do not see an expressed provision. I believe as a matter of law the sheriff is, one, obligated to comply with the totality of the act so he has no authority to act outside the act, and he only has authority to issue a permit under the provisions of the act, one; and two, generally, the sheriff can be personally liable for all things done beyond the scope. So I think the clear inference here is if he does it all in accordance with the act, he has civil immunity; if he doesn't, he doesn't have civil immunity.

SENATOR CHAMBERS: But, Senator Brashear, there is nothing that says he must do it in conformity with the act, and since the specific trumps the general, this specific grant of total immunity would trump anything you're talking about because it's total immunity in connection with this specific bill and this specific duty. But I will not pursue it now because there's not enough time. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Landis, followed by eight others.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, like others, I think I've spent some time working on this issue, thinking about it, and probably am not particularly susceptible to a good argument, and should be, but I'm not. That's the way things go. You have a tendency to lock yourself in and, as you hear things, you have a tendency to interpret them consistent with your preexisting conceptions of the issue. So let me tell you why I'm going to vote against LB 265 and why I'm going to vote against cloture. I listened very carefully at the beginning of the debate to Ray Mossey, because I thought his reflection as a law enforcement officer was important to me. And I think at the end of his testimony he said, or his