

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

April 1, 2003

LB 265

You cannot, by implication, go into some other provision of law that has nothing to do with the specific grant of total immunity and say, well, over there, the sheriff doesn't have it. This bill affirmatively states that no sheriff is liable to any injured person relating to the issuance or revocation of the permit. Now, that means if the sheriff disregards the provisions, some of the provisions, in this bill, he is not liable. He is not. But I'd like to ask Senator Brashear a question, because he understands the law. And I'm giving him a chance to return to his desk.

SENATOR CUDABACK: Would you yield?

SENATOR CHAMBERS: Senator Brashear,...

SENATOR CUDABACK: Senator Brashear.

SENATOR BRASHEAR: Yes, Mr. President.

SENATOR CHAMBERS: ...do you think that if a sheriff negligently or recklessly issues a permit in disregard of the requirements of the law he or she should face liability?

SENATOR BRASHEAR: Yes.

SENATOR CHAMBERS: So then the addition of language at the end of this section, which says something to the effect, unless the sheriff failed to exercise due care in issuing such a permit, you put a proviso under which the sheriff has immunity and that immunity would exist as it does with you and me if we're doing something that can harm somebody else. If we exercise due care and a person, nevertheless, is injured, we have not been negligent. So where we're dealing literally with matters of life or death, potentially, I believe the sheriff should not have absolute immunity in the issuance of these permits. We ought to put language that makes it clear that immunity exists only when the sheriff does as the sheriff should do, which is to pay attention to the law and make sure that any permit is issued not just under this act. The sheriff could disregard all of those specifics and say, I am issuing the license...the permit under the act because the act empowers me to do it. There is no