

**MINUTES OF THE HOUSE**  
**LAW ENFORCEMENT AND CRIMINAL JUSTICE STANDING COMMITTEE**  
**Room WO25, West Office Building, State Capitol Complex**  
**January 25, 2008**

**Members Present:** Rep. DeMar "Bud" Bowman, Chair  
Rep. Curt Oda, Vice Chair  
Rep. Brad Dee  
Rep. David Litvack  
Rep. Becky Lockhart  
Rep. Michael Morley  
Rep. Paul Ray  
Rep. Jennifer Seelig  
Rep. Ken Sumsion  
Rep. Larry Wiley  
Rep. Carl Wimmer

**Staff Present:** Mr. Stewart Smith, Policy Analyst  
Ms. Linda Black, Committee Secretary

**note:** A list of visitors and a copy of handouts are filed with the committee minutes.

Rep. Oda called the meeting to order at 2:10 p.m.

Rep. Bowman requested a personal privilege to recognize the students from his district representing Southern Utah University.

**MOTION:** Rep. Wiley moved to approve the minutes of January 23, 2008. The motion passed unanimously with Rep. Dee, Rep. Litvack, Rep. Lockhart, and Rep. Wimmer absent for the vote.

**H.B. 95      Document Fraud - Establishing Legal Status** *(Rep. K. Morgan)*

Rep. Morgan explained the bill with the assistance of Mr. Wade Faraway, Office of the Attorney General.

**MOTION:** Rep. Ray moved to delete in title and body H.B. 95 and replace it with **1st Substitute H. B. 95**. The motion passed unanimously with Rep. Dee, Rep. Litvack, Rep. Lockhart and Rep. Wimmer absent for the vote.

Spoke to the bill: Mr. Richard Hamp, Assistant Attorney General

Spoke in favor  
of the bill:

Mr. Wally McCormick, citizen  
Ms. Marilyn Larsen, PTA, Utah  
Ms. Karen Lundgren, Eagle Forum, Morgan, Utah

Spoke in opposition  
to the bill:

Mr. Tony Yapias, citizen

MOTION: Rep. Dee moved to pass the bill out favorably as substituted. The motion passed unanimously with Rep. Litvack, Rep. Lockhart, and Rep. Ray absent for the vote.

**H.B. 262 Recovery of Federal Reimbursement for Costs Associated with Illegal Immigrants** (*Rep. K. Morgan*)

Rep. Morgan presented the bill.

Spoke to the bill: Mr. Tony Yapias, citizen

MOTION: Rep. Wiley moved to move to the next item on the agenda. The motion passed with Rep. Dee, Rep. Morley, and Rep. Wimmer voting in opposition. Rep. Litvack, Rep. Lockhart, and Rep. Ray were absent for the vote.

Rep. Bowman assumed the Chair from Rep. Oda.

**H.B. 10 Disclosure of Identity to Officer** (*Rep. C. Oda*)

Rep. Oda introduced the bill with the assistance of Mr. Wade Farraway, Office of the Attorney General.

Spoke in favor  
of the bill:

Sgt. Mike Streker, Weber Co. Sheriffs Office  
Mr. Jeff Novak, citizen  
Mr. Norman Davis, Utah Minutemen

MOTION: Rep. Wiley moved to pass the bill out favorably. The motion passed unanimously with Rep. Litvack, Rep. Morley, and Rep. Ray absent for the vote.

MOTION: Rep. Wimmer moved to place **H. B. 10** on the Consent Calendar. The motion passed unanimously with Rep. Litvack, Rep. Morley, and Rep. Ray absent for the vote.

**H.B. 12      Controlled Substances and Paraphernalia** (*Rep. C. Oda*)

Rep. Oda presented the bill with the assistance of Ms. Jaycee Skinner, Statewide Association of Prosecutors.

MOTION:      Rep. Wimmer moved to pass the bill out favorably. The motion passed unanimously with Rep. Litvack, Rep. Morley, and Rep. Ray absent for the vote.

MOTION:      Rep. Wimmer moved to place **H. B. 12** on the Consent Calendar. The motion passed unanimously with Repl Litvack, Rep. Morley, and Rep. Ray absent for the vote.

Rep. Oda resumed the Chair.

**H.B. 14      Discharge of Firearm Amendments** (*Rep. C. Wimmer*)

Rep. Wimmer presented the bill with the assistance of Mr. Chad Platt, Chair, Statewide Association of Prosecutors.

MOTION:      Rep. Wimmer moved to amend the bill as follows:

1. *Page 2, Line 32:*

32            76-10-508, as last amended by Laws of Utah 2005, Chapter 220

**ENACTS:**

**Section 76-10-508.1, Utah Code Annotated 1953**

2. *Page 3, Lines 65 through 67:*

65            (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that  
66      requires disqualification;

67            (xi) a felony violation of Section 76-10-508 **or 76-10-508.1** involving  
discharging or allowing the

3. *Page 3, Lines 83 through 86:*

83            (b) The division shall immediately revoke the license of a person upon receiving a  
84      record of an adjudication under Title 78, Chapter 3a, Juvenile Court Act of 1996, for [~~any~~  
of

85      ~~the following offenses~~]:

86 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving  
discharging or allowing the

4. *Page 6, Lines 165 through 166:*

165 (v) a felony violation of [~~Subsection~~] Section 76-10-508~~(2)~~ or 76-10-508.1  
regarding discharge of a  
166 firearm or dangerous weapon.

5. *Page 8, Lines 226 through 227:*

226 (b) It ~~{shall be}~~ is a defense to any ~~{+}~~ **charge for**  
**violating** ~~{+}~~ ~~{—misdemeanor violation of}~~ this  
227 section that the person being accused had actual permission of the owner or person in  
charge of

6. *Page 8, Line 229 through Page 9, Line 250:*

229 (2) ~~{+}~~ A ~~{+}~~ ~~{Except as provided in Subsection (3), a}~~ violation of  
any provision of [~~this~~  
230 section] Subsection (1) is a class B misdemeanor [~~unless the actor discharges~~].  
231 ~~{(3) A person commits a felony offense subject to penalty under Subsection~~  
~~(4) if the~~  
232 ~~person violates any provision of Subsection (1) by discharging}~~ ~~{a firearm under~~  
~~any of the~~  
233 ~~following circumstances not amounting to criminal homicide or attempted criminal~~  
~~homicide}~~ [~~;~~  
234 in which case it is a third degree felony and the convicted person shall be sentenced to an  
235 enhanced minimum term of three years in prison] ~~{:~~  
236 ~~—(a) the actor discharges a firearm in the direction of any person or persons;~~  
~~knowing or~~  
237 ~~having reason to believe that any person may be endangered;~~  
238 ~~—(b) the actor, with intent to intimidate or harass another or with intent to~~  
~~damage a~~  
239 ~~habitable structure as defined in Subsection 76-6-101(2), discharges a firearm in the~~  
~~direction~~  
240 ~~of any building; or~~  
241 ~~—(c) the actor, with intent to intimidate or harass another, discharges a firearm in~~

the  
242 ~~direction of any vehicle.~~  
243       ~~{(4) A violation under Subsection (3):~~  
244 ~~—(a) is a felony of the third degree, punishable by imprisonment for a term of not~~  
~~less~~  
245 ~~than three years nor more than five years, except as provided in Subsection (4)(b) or~~  
~~(c):~~  
246 ~~—(b) that results in bodily injury to another is a felony of the second degree,~~  
~~punishable~~  
247 ~~by imprisonment for a term of not less than three years nor more than 15 years,~~  
~~except as~~  
248 ~~provided in Subsection (4)(c); or~~  
249 ~~—(c) that results in serious bodily injury to another is a first degree felony,~~  
~~punishable by~~  
250 ~~imprisonment for a term of not less than three years and which may be for life. }~~

7. Page 9, Lines 251 through 259:

251       ~~{+}~~ (3) ~~{+}~~   ~~{(5)}~~   ~~{The}~~    In addition to any other penalties,  
the court shall:  
252       (a) notify the Driver License Division of the conviction for purposes of any  
revocation,  
253 denial, suspension, or disqualification of a driver license under ~~[Section]~~ Subsection  
254 53-3-220(1)(a)(xi); and  
255       (b) specify in court at the time of sentencing the length of the revocation under  
256 Subsection 53-3-225(1)(c).  
257       ~~{+}~~ (4) ~~{+}~~   ~~{(6)}~~   This section does not apply to a person who:  
258       (a) ~~[who]~~ discharges any kind of firearm when that person is in lawful defense of self  
259 or others; ~~[or]~~

8. Page 9, Lines 265 through 266:

265       stop at a location other than within the boundaries of the firing range or training ground  
266       described in Subsection ~~{(6)}~~   (4) (c)(i);

9. Page 9, Line 270:

270       (v) the discharge is not made in violation of Subsection ~~{(3)}~~   (1) .

Section 4. Section 76-10-508.1 is enacted to read:

76-10-508.1. Felony Discharge of a firearm – Penalties.

(1) Except as provided under Subsection (2) or (3), a person who discharges a firearm under any of the circumstances not amounting to criminal homicide or attempted criminal homicide is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of any person or persons, knowing or having reason to believe that any person may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any person or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) which causes injury to any person is a second degree felony punishable by imprisonment for a term of not less than three years nor more than fifteen years.

(3) A violation of Subsection (1) which causes serious bodily injury to any person is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to a person:

(a) who discharges any kind of firearm when that person is in lawful defense of self or others;

(b) who is performing official duties as provided in Sections 23-20-1.5 or 76-10-523 or as otherwise authorized by law;

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross

over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and

(v) the discharge is not made in violation of Subsection (1).

The motion passed unanimously with Rep. Litvack absent for the vote.

Spoke in favor

of the bill: Mr. Bill Clayton, Director, Gun Owners of Utah

MOTION: Rep. Wiley moved to pass the bill out favorably as amended. The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep. Wiley moved to place **H. B. 14** on the Consent Calendar. The motion passed unanimously with Rep. Litvack absent for the vote.

**H.B. 235 County Merit System Amendments** *(Rep. B. Dee)*

Rep. Dee presented the bill.

MOTION: Rep. Ray moved to pass the bill out favorably. The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep. Ray moved to place **H. B. 235** on the Consent Calendar. The motion passed unanimously with Rep. Litvack absent for the vote.

**H.B. 237 Illegal Immigration Enforcement Act** *(Rep. G. Donnelson)*

Rep. Donnelson introduced the bill.

Spoke in opposition

of the bill: Mr. Lee Gardner, Joint Latino Task Force  
Chief Chris Burbank, Salt Lake City Police Force

Spoke in favor  
of the bill:           Mr. Norman Davis, Utah Minutemen  
                              Mr. Jeff Novak, citizen, Sandy, Utah

MOTION:   Rep. Wimmer moved to pass the bill out favorably. The motion passed with Rep. Litvack, Rep. Seelig, and Rep. Wiley voting in opposition. Rep. Morley was absent for the vote.

MOTION:   Rep. Wiley moved to adjourn. The motion passed unanimously with Rep. Morley absent for the vote. Rep. Oda adjourned the meeting at 4:05 p.m.

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Rep. DeMar "Bud" Bowman, Chair