

**MINUTES OF THE HOUSE TRANSPORTATION  
STANDING COMMITTEE**  
Room C450, State Capitol, Utah State Capitol Complex  
February 15, 2008

MEMBERS PRESENT:                   Rep. Todd E. Kiser, Chair  
  Rep. Bradley M. Daw, Vice-Chair  
  Rep. Steven D. Clark  
  Rep. Ben C. Ferry  
  Rep. Julie Fisher  
  Rep. Lynn N. Hemingway  
  Rep. Christopher N. Herrod  
  Rep. Ronda R. Menlove  
  Rep. Karen W. Morgan  
  Rep. Paul Neuenschwander

MEMBERS ABSENT:                   Rep. Tim M. Cosgrove  
  Rep. Kory M. Holdaway  
  Rep. Brad King  
  Rep. Gordon E. Snow  
  Rep. Mark W. Walker

STAFF PRESENT:                    Leif Elder, Policy Analyst  
  Linda Error, Committee Secretary

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

Chair Kiser called the meeting to order at 3:25 p.m.

MOTION:     Rep. Neuenschwander moved to approve the minutes of the February 13, 2008 meeting. The motion passed unanimously, with Rep. Fisher, Rep. Herrod, and Rep. Menlove absent for the vote.

S.B. 15       Driving Under the Influence Amendments (*Sen. C. Walker*)

Sen. Walker introduced the bill to the committee with the assistance of Paul Boyden, Statewide Association of Prosecutors.

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

1. *Page 2, Line 53:*

53           53-3-223, as last amended by Laws of Utah 2007, Chapter 261

=           **76-5-207, as last amended by Laws of Utah 2006, Chapter 341**

2. *Page 3, Lines 70 through 71:*

- 70 (b) "Drug" or "drugs" means ∴  
(i) a controlled substance as defined in Section 58-37-2;  
(ii) a drug as defined in Section 58-17b-102; or  
(iii) any substance that, when taken into the human body, can  
71 impair the ability of a person to safely operate a motor vehicle.

3. *Page 5, Line 133:*

- 133 Section 41-6a-502 committed on or after July 1, 2008 ∴ may be entered as a conviction  
of

4. *Page 5, Lines 139 through 140:*

- 139 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion  
of  
140 probation under Subsection (1)(a), the court shall enter the conviction at the time of  
the plea.

5. *Page 21, Line 623:*

- 623 hearing on the matter which, if held, is governed by Section 53-3-224.

∴ Section 10. Section 76-5-207 is amended to read:

**76-5-207. Automobile homicide.**

- (1) As used in this section {~~,"motor"~~} ∴

(a) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) any substance that, when taken into the human body, can impair the ability  
of a person to safely operate a motor vehicle.

(b) "Motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

(2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person operates a motor vehicle in a negligent manner causing the death of another and:

(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;

(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol

and any drug to a degree that renders the person incapable of safely operating a vehicle; or  
(iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation.

(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is subsequent to a conviction as defined in Subsection 41-6a-501(2).

(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(3) (a) Criminal homicide is automobile homicide, a second degree felony, if the person operates a motor vehicle in a criminally negligent manner causing the death of another and:

(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test;

(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(iii) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation.

(b) As used in this Subsection (3), "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).

(4) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(5) Calculations of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(1).

(6) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(7) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

**Renumber remaining sections accordingly.**

The motion to amend passed unanimously, with Rep. Menlove absent for the vote.

MOTION: Rep. Fisher moved to amend the previous amendment as follows:

1. Page 3, Line 70 (iii) after taken insert knowingly, intentionally or recklessly
2. Page 21, Line 623 (iii) after taken insert knowingly, intentionally or recklessly

The motion to amend passed, with Rep. Herrod voting in opposition.

Spoke for the bill: Anna Kay Waddoups, Chair, DUI Subcommittee  
Sen. Michael Waddoups, Utah State Senator

MOTION: Rep. Daw moved to pass the bill out favorably. The motion passed unanimously.

**S.B. 148 Enforcement of Front License Plate Display Requirement Amendments**  
*(Sen. S. Killpack)*

Sen. Killpack introduced the bill to the committee.

Spoke for the bill: Charles Burnside, citizen

MOTION: Rep. Fisher moved to pass the bill out favorably.

**SUBSTITUTE**

MOTION: Rep. Morgan moved to proceed to the next item on the agenda. The motion failed, with Rep. Morgan voting in favor.

The original motion to pass the bill out favorably passed, with Rep. Morgan voting in opposition.

**H.B. 228 Amendments to Motor Vehicle Provisions** *(Rep. C. Herrod)*

Rep. Herrod introduced the bill to the committee.

MOTION: Rep. Herrod moved to delete in title and body H.B. 228 and replace it with 1st Substitute H.B. 228. The motion passed unanimously.

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

1. Page 1, Delete Lines: 16-17 and 20-23
2. Page 2, Delete Lines: 49-50
3. Page 3 & 4, Delete Lines: 80- 93

Minutes of the House Transportation Standing Committee  
February 15, 2008\  
Page 5

SUBSTITUTE

MOTION: Rep. Daw moved to adjourn the meeting. The motion passed unanimously.

Chair Kiser adjourned the meeting at 4:47 p.m.

---

Rep. Todd E. Kiser