

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE
STANDING COMMITTEE MEETING
WEDNESDAY, FEBRUARY 25, 2009, 4:10 PM
ROOM 250, STATE CAPITOL**

Members Present: Sen. Jon J. Greiner
Sen. Mark B. Madsen
Sen. Michael Waddoups
Sen. Scott D. McCoy
Sen. Ross I. Romero

Members Excused: Sen. Lyle W. Hillyard

Staff Present: Jerry Howe, Policy Analyst
Allison Volk, Committee Secretary

Public Speakers Present: Paul Boyden, Executive Director, Statewide Association of Prosecutors
Rob Latham, Attorney, Association of Criminal Defense Lawyers
Steve Major, Attorney, Davis County Attorney's Office
Tom Patterson, Executive Director, Utah's Department of Corrections
Scott Reed, Assistant Attorney General, Attorney General's Office
Jacey Skinner, Director, Sentencing Commission
Steve Sullivan, Representative, Utah Association of Justices

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

Chair Waddoups called the meeting to order at 4:35 pm.

Approval of Minutes

MOTION: Sen. Greiner moved to approve the minutes of February 17, February 20, February 23 of 2009.

The motion passed with Sen. Madsen absent during the time of the vote.

1. S.B. 90 Metal Theft Amendments and Penalties, by Sen. Greiner.

MOTION: Sen. Greiner moved to amend S.B. 90.

1. Page 2, Lines 29 through 33:

29 ENACTS:

= 76-6-402.5, Utah Code Annotated 1953

30 76-6-412.5, Utah Code Annotated 1953

31 ~~{76-10-907.5, Utah Code Annotated 1953}~~

32

33 *Be it enacted by the Legislature of the state of Utah:*

= Section 1. Section 76-6-402.5 is enacted to read:

= 76-6-402.5. Defense regarding metal dealers.

= It is a defense against a charge of theft under this part and a defense against a civil claim for conversion if any dealer as defined in Section 76-10-901 has acted in compliance with Title 76, Chapter 10, Part 9, Regulation of Metal Dealers.

2. *Page 2, Lines 43 through 48:*

43 As used in this part:

(1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.

44 ~~{(1)}~~ (2) "Dealer" means any scrap metal processor or secondary metals dealer or recycler,

45 but does not include junk dealers or solid waste management facilities as defined in Section

46 19-6-502.

47 ~~{(2)}~~ (3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

48 ~~{(3)}~~ (4) "Identification" means a form of positive identification issued by a governmental

3. *Page 2, Line 54:*

54 ~~{(4)}~~ (5) "Junk dealer" means all persons, firms, or corporations engaged in the business of

4. *Page 2, Line 57:*

57 ~~{(5)}~~ (6) "Local law enforcement agency" means the law enforcement agency that has

5. *Page , Line 59 through Page 3, Line 53:*

59 ~~{(6)}~~ (7) "Nonferrous metal":

6. *Page 3, Lines 62 through 63:*

62 ~~{(7)}~~ (8) (a) "Regulated metal" means any item composed primarily of nonferrous metal,

63 except as provided in Subsection ~~{(7)}~~ (8) (c).

7. *Page 3, Line 66:*

66 except under Subsection ~~{(7)}~~ (8) (c);

8. *Page 3, Line 79:*

79 (i) ferrous metal, except as provided in Subsection ~~{(7)}~~ (8) (b)(ii) or (iv);

9. *Page 4, Lines 108 through 109:*

108 (iii) aluminum wire, siding, downspouts, or gutters[-]; ~~{and}~~

(k) catalytic converters; and =

109 ~~{(k)}~~ (l) wire that has been burned or that has the appearance of having
been burned.

10. *Page 7, Lines 187 through 190:*

187 ~~{Section 5. Section 76-10-907.5 is enacted to read:~~

188 ~~—76-10-907.5. Transactions over \$100 may not be in cash.~~

189 ~~—A dealer making a purchase of more than \$100 worth of regulated metal in a~~
~~single~~

190 ~~transaction shall pay for the metal by check or money order, and may not pay by~~
~~cash.}~~

The motion passed with Sen. Madsen absent during the time of the vote.

MOTION: Sen. Greiner moved to amend S.B. 90.

1. *Page 1, Lines 22 through 23:*

22 Other Special Clauses:

23 ~~{None}~~ This bill provides an immediate effective date.

2. *Page 7, Line 190:*

190 transaction shall pay for the metal by check or money order, and may not pay by cash.

= Section 6. Effective date.

= If approved by two-thirds of all the members elected to each house, this
bill takes effect upon approval by the governor, or the day following the
constitutional time limit of Utah Constitution Article VII, Section 8, without
the governor's signature, or in the case of a veto, the date of veto override.

The motion passed with Sen. Madsen absent during the time of the vote.

Sen. Greiner presented S.B. 90, as amended.

MOTION: Sen. Greiner motioned to move S.B. 90 out with a favorable recommendation.

The motion passed unanimously.

MOTION: Sen. Greiner moved to place S.B. 90 on the consent calendar.

The motion passed unanimously.

MOTION: Sen. McCoy motioned to send S.B. 227 to the Master Study for interim.

The motion passed unanimously.

Sen. Waddoups relinquished the chair to Sen. Madsen.

2. **H.B. 138 Expungement of Records Amendments**, by Rep. Fisher.

Rep. Fisher presented H.B. 138.

Sen. Greiner spoke to the bill.

Steve Major, Attorney, Davis County Attorney's Office, spoke in favor of the bill.

MOTION: Sen. McCoy motioned to move S.B. 138 out with a favorable recommendation.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

MOTION: Sen. McCoy motioned to place S.B. 138 on the consent calendar.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

3. **H.B. 329 Wrongful Death Claims**, by Rep. Fowlke.

MOTION: Sen. McCoy motioned to adopt 1st Substitute H.B. 329.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

Steve Sullivan, Representative, Utah Association of Justices, spoke in favor of the bill.

MOTION: Sen. McCoy motioned to move 1st Substitute H.B. 329 out with a favorable recommendation.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

MOTION: Sen. McCoy motioned to place 1st Substitute H.B. 329 on the consent calendar.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

4. H.B. 37 Violent Offenses Amendments, by Rep. Seelig.

Rep. Seelig presented the bill.

Paul Boyden, Executive Director, Statewide Association of Prosecutors, spoke in favor of the bill.

MOTION: Sen. Romero motioned to move H.B. 37 out with a favorable recommendation.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

MOTION: Sen. Romero motioned to move H.B. 37 on the consent calendar.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

5. 2nd Sub. H.B. 220 State Payment and Reimbursement to County Correctional Facilities, by Rep. Noel.

Rep. Noel presented 2nd Substitute H.B. 220.

Tom Patterson, Executive Director, Utah's Department of Corrections, spoke in favor of the bill.

MOTION: Sen. McCoy motioned to move 2nd Substitute H.B. 220 out with a favorable recommendation.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

6. H.B. 130 Asset Preservation Amendments, by Rep. Hughes.

Rep. Hughes presented H.B. 130.

Scott Reed, Assistant Attorney General, Attorney General's Office, spoke in favor of the bill.

Sen. Greiner spoke to the bill.

MOTION: Sen. McCoy motioned to move H.B. 130 out with a favorable recommendation.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

MOTION: Sen. McCoy motioned to place H.B. 130 on the consent calendar.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

7. H.B. 136 Sex Offender Definition Amendments, by Rep. Ray.

Rep. Ray presented the bill.

Jacey Skinner, Director, Sentencing Commission, spoke in favor of the bill.

Sens. Greiner, Romero and McCoy spoke in favor of the bill.

Rob Latham, Attorney, Association of Criminal Defense Lawyers, spoke against the bill.

MOTION: Sen. McCoy motioned to move H.B. 136 out with a favorable recommendation.

The motion passed with Sens. Waddoups and Madsen absent during the time of the vote.

MOTION: Sen. McCoy moved to adjourn.

The meeting adjourned at 6:00 pm.

Minutes were reported by Allison Volk, Secretary.

Sen. Michael G. Waddoups, President of the Senate