

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, March 16, 2015

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Hagedorn, Senators Davis, Tippetts, Johnson, Bayer, Souza, Burgoyne and Jordan

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Lodge** called the Senate Judiciary and Rules Committee (Committee) to order at 1:31 p.m.

**H 163** **Representative Wills** stated the purpose of **H 163** is to revise effective training dates for provisions found in Sections 4, 15 and 17 of 1357 (2014) from March 1, 2015 to October 1, 2015, and to declare an emergency for this retroactive application.

**MOTION:** **Senator Souza** moved that **H 163** be sent to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**H 158** **Judge Barry Wood**, Idaho Supreme Court Senior District Judge, said **H 158** seeks to amend Idaho Code §§19-29-03 and 19-29-15 to alleviate a problem in the Bail Act of 2009. He explained when there is a bench warrant for failure to appear, there is a bond amount set on the face of the warrant. The defendant can bail back out before appearing before the judge. The bill allows courts discretion to either set no bail on a bench warrant, set bail but require that the defendant appear in court, or delay setting the bond and other conditions until the defendant appears in court.

**Senator Jordan** questioned what would constitute failure to appear. **Judge Wood** replied that depends upon the circumstances. There is a second statute providing that the order of forfeiture can be revised if the defendant appears and explains why the court date was missed.

**Senator Burgoyne** queried if the bill was constitutional. **Judge Wood** explained that everyone has a right to bail. This bill addresses the timing of when a defendant is allowed to post the bail and relates to failure to appear in court.

**Senator Tippetts** disclosed he has a conflict of interest pursuant to Senate Rule 39(H), but intends to vote.

**MOTION:** **Senator Johnson** moved that **H 158** be sent to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

**S 1135** **Jared Larsen** explained that **S 1135** will amend Chapter 5 of Title 45 regarding the mechanics of liens. Liens of realty involve deeds of trust and involve the trustee who holds legal title. When a creditor is placing a lien on the property for services rendered, the owner of the property subject to the lien must be listed. Omitting the trustee does not comply with the statute. This bill makes it so the creditor cannot include the trustee but can still attach the lien to the property.

**Senator Davis** stated the Land Title Association wanted the proposed language in this bill. He advised the Committee to send the bill to the 14th Order and add that language.

**MOTION:** **Senator Tippets** moved that **S 1135** be sent to the 14th Order for amendment. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**H 104** **Representative Luker** explained **H 104** reclassifies littering on private or public lands from a low level misdemeanor to an infraction. The infraction penalty fee would be \$150 for a first time offense, \$300 for conviction for a second offense within two years, and \$1000 and jail time of up to 30 days for the third offense within three years.

**Senator Bayer** asked for case examples of penalties now and what the change would do. **Representative Luker** responded that under **H 104** all of the cases would be infractions regardless of wherever the litter is. A void was left relating to hazardous litter, but **H 160** would make it a misdemeanor. Right now everything is a misdemeanor, and **H 160** as a trailer bill would cover intent on hazardous litter. **Senator Bayer** asked for clarification on why some are moving to infractions and some are not. **Representative Luker** stated that while they were all infractions originally, infractions on highways and infractions on public/private property were treated differently; infractions on highways were treated as a lesser charge. This bill increases the fine and jail time for highway litter when it creates a hazard.

**Senator Tippets** questioned if placing debris on a highway, whether creating a hazard or not, would carry the same fine. **Representative Luker** replied yes.

**Senator Johnson** asked for clarification on whether "intent" on the third offense carries jail time. **Representative Luker** answered yes, it would be a misdemeanor with jail time at the discretion of the judge. **Senator Johnson** noted line 24 states a fine not exceeding \$1000 and time in the county jail and asked if this is correct wording. **Representative Luker** stated discretion of the judge is permitted. **Senator Johnson** asked why jail time is mandated. **Representative Luker** mentioned there is no problem taking out that part. This was drafted before trailer bill **H 160**.

**Senator Davis** clarified this is typical language. This bill provides for a fine not to exceed \$1000 and jail time not to exceed 30 days.

**MOTION:** **Vice Chairman Hagedorn** moved that **H 104** be sent to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**H 160** **Representative Luker** stated **H 160** is a trailer bill identifying the definition of willful conduct that creates a hazard on highways and other roads.

**Senator Tippets** questioned how the language relating to the fine "and" imprisonment as opposed to the fine "or" imprisonment was determined. **Representative Luker** answered that customary language was used..

**MOTION:** **Vice Chairman Hagedorn** moved that **H 160** be sent to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**H 195** **Representative Luker** stated **H 195** is a reclassification of certain firework violations from low level misdemeanors to infractions. It is to better align punishment with crimes committed and costs related to public defense.

A discussion ensued with **Senator Davis**, **Senator Johnson** and **Senator Tippets** asking questions regarding illegal fireworks brought in from other states, life threatening usage, serious personal property issues, altering fireworks and whether the selling of any fireworks, whether legal or illegal, constitutes an infraction.

**Representative Luker** suggested the bill be held until he could do some research.

**Chairman Lodge** said the bill would be held in Committee until Wednesday, March 18, 2015.

**HCR 13**

**Vice Chairman Hagedorn** reviewed the background of **HCR 13** regarding the appropriate use of the GED and the GED requirement for homeschoolers. The Committee had asked ISP to change the rule and clarify the need for transcripts for homeschoolers. **HCR 13** represents the changes made.

**Victor McCraw**, Division Administrator, Peace Officer Standards and Training (POST), stated the intention of POST is to be as inclusive as possible for those qualified to apply, but there must be a minimum level of education to ensure applicants' success at the academy. Homeschoolers do not have standard and consistent requirements for graduation. The reason POST would like the GED requirement stricken from the rules is so POST can move forward. POST would still face homeschoolers' certificates from other states standards, and POST wants to be fair to all.

**MOTION:**

**Vice Chairman Hagedorn** moved that **HCR 13** be sent to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**

**Senator Burgoyne** moved to approve the Minutes of February 11, 2015. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**

**Senator Souza** moved to approve the Minutes of February 23, 2015. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**WELCOME:**

**Chairman Lodge** introduced and welcomed Utah's Senate Pro Tempore Curt Bramble to the Committee meeting.

**ADJOURNED:**

With no further business, **Chairman Lodge** adjourned the meeting at 2:22 p.m.

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Senator Lodge  
Chair

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Carol Cornwall  
Committee Secretary

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Barbara Lewis  
Assistant Secretary