

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fourth Session
May 16, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:16 a.m., on Wednesday, May 16, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Bernie Anderson, Chairman
Assemblyman William Horne, Vice Chairman
Assemblywoman Francis Allen
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBER ABSENT:

Assemblyman John Ocegura (Excused)



STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Risa Lang, Committee Counsel
Danielle Mayabb, Committee Secretary
Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Sue Meuschke, Executive Director, Nevada Network Against Domestic Violence
Philip K. O'Neill, Division Chief, Records and Technology Division, Department of Public Safety

Chairman Anderson:

[Roll was called.] We will open the hearing on Senate Bill 202 (1st Reprint).

Senate Bill 202 (1st Reprint): Makes various changes relating to domestic relations. (BDR 11-215)

At the time of the original hearing, Ms. Meuschke raised a question that we did not have an answer for.

Sue Meuschke, Executive Director, Nevada Network Against Domestic Violence:
I had a concern about a piece of the legislation that talked about the Criminal History Repository making determinations about the kind of information that would be reported to them pursuant to *Nevada Revised Statutes* (NRS) 171.1227. This statute was enacted in 1985. It requires law enforcement to report on any call they receive having to do with domestic violence whether or not an arrest is made. Since 1985, we have been collecting some data on what has been happening when law enforcement responds. I was concerned that the language of the amendment would end the collection of some data. I had subsequent conversations with the Department of Public Safety (DPS) and worked out an amendment that will help them in terms of prescribing what information is collected and how that information is sent to them so that they can compile and report it. At the same time, they can preserve all the data elements that we had been collecting in the past on domestic violence. We have agreed to this amendment. It contains specific data elements that will be transmitted to the repository, and they will work with law enforcement to develop a form for reporting that information. Hopefully, we will resume getting annual reports on domestic violence cases in Nevada.

**Philip K. O'Neill, Division Chief, Records and Technology Division,
Department of Public Safety:**

We were trying to address the mechanism that is currently used and has been used in the past to collect this statistical data. There has been conflicting information within statute on what is to be collected and subsequently reported. Some agencies will send it in a format that we can easily tabulate; other agencies just send us copies of police reports necessitating staff to read them, extract the information, put it on a Scantron form, and then send it through a Scantron machine. We would like to go to an electronic form so information can be tabulated more quickly, be more relevant, and be easier to understand. That has been our goal, and that is what we have worked out with the domestic violence groups.

Chairman Anderson:

You had a similar piece of legislation that passed out of the other House yesterday. Did you make this clarification in that piece of legislation also?

Philip K. O'Neill:

Yes.

Assemblyman Carpenter:

After I talked to all the parties concerned, the Senate Judiciary did amend Assembly Bill 52 to include the amendment that we have here this morning.

Chairman Anderson:

Is there anyone else wanting to be heard on S.B. 202 (R1)? [There was no one.] I will close the hearing on S.B. 202 (R1). Let us turn our attention to the work session document ([Exhibit C](#)). The first bill is Senate Bill 16 (1st Reprint).

Senate Bill 16 (1st Reprint): Revises the provisions pertaining to eminent domain. (BDR 3-121)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 16 (R1) was presented on May 2 by Senator Care. This is one of the eminent domain bills for the Committee to consider. This bill, as amended in the Senate, does two things. First, it provides that the property owner in an eminent domain proceeding is entitled to interest earned on the money deposited with the court, and outlines the procedures to determine the amount. The measure also authorizes the property owner to choose the date of valuation of the property. Kermit Waters, on behalf of the People's Initiative to Stop the Taking of Our Land (PISTOL), spoke in favor of the bill as written, but the majority of the testimony favored the amendment proposed by Derek Morse of the Washoe County Regional Transportation Commission (RTC). The RTC

amendment would delete Section 1.5 of the bill, the provision allowing the property owner to choose the date of valuation. The second amendment, which is on page 1 of the work session document, was suggested by Assemblyman Carpenter and it would change the effective date of the bill to "upon passage and approval," which is similar to the other eminent domain bill that we have in the work session.

Chairman Anderson:

I do not see any problem with Mr. Morse's or Mr. Carpenter's amendments.

ASSEMBLYMAN COBB MOVED TO AMEND AND DO PASS
SENATE BILL 16 (R1).

ASSEMBLYMAN HORNE SECONDED THE MOTION.

Assemblyman Segerblom:

I oppose the motion because Section 1.5 is good law and should not be removed. The testimony was that if this were enacted, it would somehow harm the government entities that are involved in eminent domain because it would require them to pay a lot more money. The flipside of that is that if this would require them to pay more money, then obviously there is something wrong with the system. Section 1.5, as it now stands, says that the property that is being taken is valued as of the time of the trial, which is when you would want to get your money. This is just for the two-year period from when the claim is filed and when the case goes to trial. The current law says that if the case goes to trial after two years, then the date of the trial is the valuation date. During that two-year period, if property values are rising 10 or 20 percent a year, obviously you would want to use the valuation date of the trial as opposed to the valuation date of when the complaint was filed because that would be more appropriate for the landowner. If there is no big rise in the valuation of property, then this amendment would make very little difference. I am curious why these government entities are so upset and feel that Section 1.5 would somehow drastically change the landscape. It seems fair. We want the landowner to be compensated for what their property is worth. The date of valuation would be more appropriate for the day of the trial than it would be for the day the complaint is filed. For that reason, I oppose the motion, and would like to see Section 1.5 stay in the bill.

Assemblyman Mortenson:

I completely agree with my colleague. Section 1.5 is a good provision and should stay in the bill.

Assemblyman Ohrenschall:

I concur with my colleagues. It was brought up at the hearing that if the landowner was being allowed to sell on the free market, they would have the opportunity to pick the market that would give them the best price. If the market sunk, then they might not sell.

Chairman Anderson:

A homeowner decides to put his property up for sale. At that particular moment, someone makes an offer and he sells it. If he had waited for another eight or ten months, the market could have dramatically changed over that time period. There has to be a beginning and ending place.

Assemblyman Cobb:

I favor the motion. There is a certain point in time when the proposed sale has been made. That process can be dragged out for years before the trial commences and it could significantly increase the cost of many of these projects. It is a bit surprising to me to hear my colleagues from Clark County talking about what could end up costing transportation projects millions of dollars. This was a delicately negotiated compromise between all the parties. I commend the people involved with that, and I think we should live up to and honor that compromise and make sure that we are not going to be adding on millions of dollars of cost to transportation projects that we are right now trying to fund.

Assemblyman Carpenter:

I think that eminent domain has to keep the property owner whole. Otherwise, we lose sight of the whole situation. The way law is now, if there is a new trial ordered, the valuation goes back to when the original trial was and that could be a substantial length of time. I do not think that is really fair either. Having had some experience in these situations, I would like Section 1.5 to remain in the bill.

Assemblywoman Allen:

I am in favor of Section 1.5, but should the Chair decide to take a motion that does not include it, I will not oppose that motion.

Chairman Anderson:

We have a motion in front of us that would amend that section out.

Assemblyman Mabey:

I support the motion.

Assemblyman Goedhart:

I support the motion.

Assemblywoman Gerhardt:

I support the motion.

Assemblyman Manendo:

I would like to see Section 1.5 remain in the bill.

Assemblyman Segerblom:

The significance between picking the valuation date when the private property owner sells voluntarily is that when they make that decision, they get paid. However, in the particular case we are talking about, the government makes the decision when the property will be valued, but the seller does not get paid until after the trial. That is why the date of valuation at the trial date is so important.

THE MOTION PASSED. (ASSEMBLYMEN CARPENTER, MANENDO, MORTENSON, OHRENSCHALL, AND SEGERBLOM VOTED NO. ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

Chairman Anderson:

Mr. Horne will take the bill on the Floor. Let us open the hearing on Senate Bill 85 (1st Reprint).

Senate Bill 85 (1st Reprint): Makes various changes to provisions relating to eminent domain. (BDR 3-9)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 85 (R1) was sponsored by Senator Raggio and was presented to the Committee by Mike Foley on behalf of the Clark County District Attorney's Office on May 2nd. This measure seeks to mirror the language of Assembly Joint Resolution 3 regarding eminent domain, which this Committee heard and approved along with Assembly Bill 102. Both Assembly measures were approved by the full Assembly and have been considered in the Senate. While in the Senate, additional amendments were made to A.J.R. 3 and A.B. 102, therefore, this Committee is being asked to make similar amendments to S.B. 85 (R1) so that all three measures are identical. The amendments outlined in the work session document were taken from the memo that starts at page 3 in that document. The section and page numbers referenced in the memo do not quite match the bill, but the summary pages on pages 4 and 5 of your work session document have been amended to match the sections of the bill, which explains any discrepancies that you may see between the memo and the summary. The amendments relate to and clarify the following issues: the

leasing of public facilities, land exchange to settle a condemnation case, prejudgment interest on the money deposited with the court, responsibility for interest by the party who causes a delay in the proceedings, the project influence rule, and the effective date of the bill. As the Committee heard in testimony, the amendments to the bill are a compromise by all interested parties. There was no opposition to the bill or the amendments ([Exhibit C](#)).

Chairman Anderson:

This will bring S.B. 85 (R1) into conformity with A.B. 102. We do not necessarily have to take this bill. Let us open the hearing on Senate Bill 7 (1st Reprint).

Senate Bill 7 (1st Reprint): Establishes civil liability for certain acts involving the use of controlled substances and the consumption of alcoholic beverages. (BDR 3-53)

Jennifer Chisel, Committee Policy Analyst:

The Committee heard this bill on May 3, as presented by Senator Wiener. This is the social host bill which imposes civil liability for damages that result if the host knowingly provides alcohol or drugs or allows the consumption of alcohol or drugs by a minor on his premises. There are no amendments for the Committee to consider, and there was no opposition testimony on this measure.

Assemblyman Carpenter:

On page 3, on lines 2 and 3, it says "any damage caused by the under-aged person as a result of the alcoholic beverage." We do not have any kind of standard as to whether the blood alcohol level is 0.08 or something else. I was wondering if that could be a problem.

[Chairman Anderson leaves.]

Vice Chairman Horne:

This is a civil liability clause. Persons under the age of 21 are not supposed to be consuming alcohol in the first place. Under this, it is like a strict liability type of burden. If an individual caused an accident and it is determined there is alcohol in his blood, he is held liable under this standard. If you put in a 0.08 standard, you are saying that it is okay for underage drinkers to be at 0.07. I do not think that is a message we want to send.

Assemblyman Carpenter:

I know they are not supposed to be drinking. On the other hand, they may be at a home where there is alcohol being served. Even though consumption of

alcohol would not have been the cause of the accident because they were fully in control of their faculties, it still could get them in a lot of trouble.

Assemblyman Conklin:

I support the bill, but I am concerned about the same area as Mr. Carpenter. It is my understanding of this per se law that if a minor under a 0.08 blood alcohol level, he is still guilty, but 0.08 is the threshold at which one is impaired. It is impossible to measure impairment by just having some measure at that time. This is saying "civil action for any damages caused by the underage person as a result of the consumption." That means someone would have to consume enough to have an impact on whatever action they take. We are saying that there is no per se. You have to prove that there is a link between the consumption and the behavior that resulted in the damage. Is that correct?

Risa Lang, Committee Counsel:

You are correct. It says that they are liable for damages caused by the underage person as a result of the consumption of the alcoholic beverage. There would have to be some level of proof that it was the consumption and then the impairment that caused the damage.

Assemblyman Conklin:

That will not fall under the per se law standard for driving and so on.

Assemblyman Mabey:

I will support the bill. I feel there is a double standard in our community. We let certain people serve alcohol and others cannot.

Assemblyman Segerblom:

I have a concern about the requirement that this be a knowing violation. Normally an insurance policy will not cover anything when it is a knowing violation. In these kinds of situations, the person who was the victim would probably want to be compensated by the homeowner's policy of the person who served the alcohol to the minor who caused the damage. This bill would exclude that. I would like to see it changed to "recklessly or knowingly" so that the person could get some recourse. When you sue an individual it is very difficult to get any recovery from that person. If there was an insurance policy, the insurance company would step in and defend the host if he was wrongfully charged. If it was a legitimate claim, the insurance company would pay the claim.

Assemblyman Horne:

I understand your concerns. That may be the case with some insurance policies. Let us say the Smith family serves alcohol to minors. One of the

minors leaves the premises and gets in a car accident and John Doe is injured. John Doe wants to sue the Smith family for serving alcohol to that minor. Their automobile policy says "knowing violations."

In this situation the homeowner's policy may not be accessible, but the auto insurance may be. Historically, this type of legislation without this "knowing" standard has failed to survive.

Assemblyman Segerblom:

I am willing to go with the bill as it is, but I wanted to raise that concern.

Assemblyman Ohrenschall:

During the hearing, the sponsor of the bill said that she had no intention for people to be prosecuted who are participating in religious ceremonies where wine is used. I want to make sure that was on the record. I support the bill, but I would not want any prosecutions to arise from religious and ceremonial uses of alcohol.

Assemblyman Goedhart:

Could you explain subsection 3? It seems to carve out a liability exception. I am not exactly sure why it is in the legislation. It says that if a bartender knowingly and willfully serves alcohol to a minor, he would still be exempt from any of these liabilities. Is that correct?

Vice Chairman Horne:

Yes. We have "dram shop" laws in Nevada. Those establishments would not be affected by this.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS SENATE BILL 7 (R1).

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON AND OCEGUERA WERE ABSENT FOR THE VOTE.)

I will take this on the Floor. Let us open the hearing on Senate Bill 10.

Senate Bill 10: Prohibits certain acts relating to capturing or distributing an image of the private area of another person under certain circumstances. (BDR 15-5)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 10 was presented to the Committee on April 18 by Senator Cegavske and Ben Graham. This measure relates to video voyeurism and prohibits someone from knowingly and intentionally photographing the private area of another person. Further, it prohibits the transmission of those photos. A violation of this measure results in a category E felony. The Committee has amendments from the American Civil Liberties Union (ACLU) of Nevada to consider, and this was the only testimony in opposition to the bill during the hearing. There are three amendments to consider: first, to remove the definition of "reasonable expectation of privacy" from the bill so that the court would use the definition that is commonly used in law currently; second, amend subsection 2 of the bill to remove "knows or has reason to know a photo is taken in violation of this act" to protect the press; finally, to change the level of the crime to a misdemeanor ([Exhibit C](#)).

Vice Chairman Horne:

Does anybody have a feel for this bill? I do not recall the Committee having great concern about the bill.

Assemblyman Mabey:

I support this bill the way it was originally. The ACLU stated that they had proposed these amendments on the other side and they were not accepted. That does not mean that we could not amend it.

[Chairman Anderson returns.]

ASSEMBLYMAN MABEY MOVED TO DO PASS SENATE BILL 10.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblywoman Gerhardt:

Mr. Mortenson, were your concerns about the bill addressed?

Assemblyman Mortenson:

My concerns were satisfied.

Assemblyman Conklin:

Do you or any of the other attorneys on this Committee have any sense of where the range is for similar violations? Is a category E felony too strong? I support the bill, but I just want to make sure that we get the penalty right. Somebody may somehow get caught up with it through no fault of their own.

Vice Chairman Horne:

All session we have been dealing with appropriate sentences for crimes and our prison population. This bill would make someone a felon for video voyeurism. I have similar concerns. The ACLU wants to make it a misdemeanor, however, and I do not know if I am comfortable with doing that. A category E felony is a sentence with mandatory probation, but you are still a felon. Are you making a suggestion that it be changed to a gross misdemeanor? Does anyone have any suggestions?

Assemblyman Conklin:

Maybe for a first offense, it could be a gross misdemeanor and any subsequent offense is a felony. We are trying to punish those who would make a living at doing this, as ridiculous as it sounds. How do we get those people but not somebody—and I cannot even say that it would happen by accident—who in a social, consensual setting gets caught up in something ridiculous that happens and then somebody got mad. When you pin a felony on someone, it is difficult to erase. Will there be unintended consequences from that provision?

Vice Chairman Horne:

A gross misdemeanor carries up to one year in county jail. Dr. Mabey, it was your motion. Would you have a problem with having a first offense a gross misdemeanor and a subsequent offense a category E felony?

Assemblyman Mabey:

If that is the will of the Committee. Most of the people who do this have probably done it more than once. This is not an accidental thing. They have some serious sexual addiction problems that go with this.

Assemblyman Segerblom:

I agree about changing it to a gross misdemeanor. Future legislators are going to come back and see if there have been any prosecutions under the statute. A gross misdemeanor would be more appropriate since we are trying to reduce the number of felonies; it is crazy to add one. I would support the bill with that amendment.

ASSEMBLYMAN MABEY WITHDREW THE MOTION TO DO PASS
SENATE BILL 10.

ASSEMBLYMAN MABEY MOVED TO AMEND AND DO PASS
SENATE BILL 10.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

Chairman Anderson:

Let us give S.B. 10 to Dr. Mabey. Now, we will open the hearing on Senate Bill 72 (1st Reprint).

Senate Bill 72 (1st Reprint): Adopts the Uniform Limited Partnership Act (2001) and provides for its applicability on a voluntary basis. (BDR 7-720)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 72 (R1) was presented by Senator Care on May 10th. This measure enacts the Uniform Limited Partnership Act as an additional alternative method for limited partnerships to form in Nevada. The Committee heard in testimony that this new Act is intended to accommodate the types of entities that still utilize the limited partnership entity form—primarily family limited partnerships. During the hearing, three sections of the bill were primarily discussed based on concerns raised in the Senate and in our hearing. Those sections deal with liability, fiduciary duty, and the purported partner concept. During the hearing, there was no opposition testimony provided, and there are no amendments to consider.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS
SENATE BILL 72 (R1).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

Chairman Anderson:

Mr. Cobb will take this on the Floor. Senate Bill 103 (1st Reprint) is an interesting piece of legislation. While I would like to take it up, I think we need to hang onto it.

Senate Bill 103 (1st Reprint): Adopts the Uniform Unclaimed Property Act. (BDR 10-718)

There is a potential conflict with a piece of legislation that has already passed out of our House and been signed by the Governor. We want to make sure we have a solution to the conflict before we put it in front of the Committee. Let us go to Senate Bill 157 (1st Reprint).

Senate Bill 157 (1st Reprint): Revises provisions governing the appointment of a public guardian and the management of the office and cases of a public guardian. (BDR 20-272)

We have some problems here too. We are also going to skip S.B. 157 (R1). We need to get some clarity on what the intent was for some issues that are still unresolved. Let us take a look at Senate Bill 298 (1st Reprint).

Senate Bill 298 (1st Reprint): Enacts provisions relating to civil liability for causing the injury or death of certain pets. (BDR 3-479)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 298 (R1), sponsored by Senator Hardy, was heard by the Committee on May 10th. This measure provides civil liability for the injury or death of a pet up to \$5,000 in economic damages. During the hearing, several Committee members had concerns about potential liability for injuring or killing a pet in self-defense. Senator Hardy agreed that the bill may be amended to specifically carve out self-defense situations since he did not intend to create liability in those situations. Other than those concerns, there was no opposition testimony on the measure.

Chairman Anderson:

Mr. Ohrenschall had raised some concerns about the potential for product liability and what would happen in the State of Nevada, and if this might harm us somehow in the future.

Risa Lang, Committee Counsel:

The issue was raised about what would happen with a class-action type of a lawsuit. If the intent was to limit this to actions between people and not to bring in corporate entities, we could do that by just limiting this to "natural person" instead of "person." This way it would be an action brought by a homeowner or a pet owner against another natural person rather than a corporate entity.

Chairman Anderson:

We want to make sure we amend the bill to include a provision relating to self-defense.

Assemblyman Cobb:

I would agree with you as long as this is a traditional definition of self-defense, meaning defense of yourself or of another individual being attacked, and that one could enforce that self-defense by using a weapon to protect oneself or

another individual. As long as that is the definition we would be using, I think that will correct any concerns that I had.

Assemblywoman Gerhardt:

I want to be sure that by wording it in this way, we are not going to limit civil remedies in the case of negligence on behalf of people who have put poor ingredients in dog food. There are some other remedies, correct?

Risa Lang:

This would just limit this particular provision to actions by a natural person and would leave the law with regards to corporations the way it is. That situation would probably fall under product liability or something of that nature, where the use of the product does not have the proper outcome.

Assemblywoman Gerhardt:

So, we do have other remedies?

Risa Lang:

I believe so, in that particular instance. This would seem to put a cap on the award, so that someone cannot get non-economic damages. He could only get damages up to \$5,000 for each pet. This limitation would not apply in those other situations, such as product liability. This also, specifically, would allow an action for a person whose pet is injured by another natural person where there might not be another action.

Assemblywoman Gerhardt:

I can support the bill so long as it is not going to limit people or a group of people, from taking some kind of action against a corporation that has been negligent or has allowed bad ingredients—poisons and whatnot—to be put in dog food.

Assemblyman Mortenson:

There are a couple things I do not like about the bill. Let us say a neighbor backs out of his driveway and he hits the dog of another neighbor. He harms the dog a bit and he knows the law and says, "Oh, man, my neighbor may spend \$5,000 getting this dog fixed up; I had better run over him three more times and make sure he is dead." He knows the dog is a mongrel and he is only worth the cost of a couple injections. That is uncouth, but I think it should say "economic and emotional damages." Someone buys a dog for several thousand dollars because it is purebred or whatever, and then he gets another one from the dog pound. His kids love both of these dogs equally. One dog gets poisoned and it is a \$5,000 penalty, and if the other one gets killed, it is

75 cents or whatever. I am a little unhappy with not putting "emotional" in there.

Assemblyman Carpenter:

I understand what my neighbor is talking about. If you damage or kill a pet and he has another little cat or dog in his mouth, then where would we be?

Chairman Anderson:

My wife was an elementary school teacher and there were often animals in her classroom, such as hamsters. Hamsters must cost \$2. One had tennis elbow and we spent over \$200 fixing tennis elbow for a \$2 hamster. The emotional value of a pet is the relationship and the pleasure that you receive from the pet. The emotional attachment is far greater than the actual dollar value of the animal. It seems to me that the purpose of the bill, however, is to recognize the fact that there is a liability in purposely causing the death of an animal. Of course, the emotional damage issue was in the original bill and was removed. If I am to understand what Mr. Mortenson is suggesting, we should return that language, but still have the cap at not greater than \$5,000 per pet.

Assemblyman Segerblom:

With respect to the issue of whether this would be the exclusive remedy or would someone be precluded from suing a manufacturer of pet food, it might be better to include something to the effect that this is not the exclusive remedy or this does not limit the law. Let us say the power company is driving down the road and runs over someone's dog. The owner would want to sue the power company, not the individual driver.

Chairman Anderson:

The power company did not do it, but the individual driver did.

Assemblyman Segerblom:

The insurance policy is with the power company.

Assemblyman Ohrenschall:

I concur with the sentiments of my colleagues from Henderson and Las Vegas. I would like to see this specifically limited to natural persons, not corporate entities. Sometimes people have to forego going to work because they have to run an injured dog or cat to the vet and spend all day there. They would not be able to recover that expense under this bill?

Chairman Anderson:

Correct.

Assemblyman Ohrenschall:

It seems a little unfair.

Assemblyman Mortenson:

If we look at the overall purpose of the bill, it is to keep pets safe. If your neighbor—again, an uncouth neighbor—knows your mutt is only worth 75 cents and it is barking and keeping him awake, that is not much of an incentive not to go shoot the dog. If he knows there is an emotional value and that he can be fined up to \$5,000, he might just go talk to you and say, "Keep your dog quiet."

[Chairman Anderson leaves.]

Vice Chairman Horne:

Mr. Mortenson, there are some criminal statutes for those types of actions against animals. While the civil remedy may be wanting for accidents such as running over a dog several times to avoid liability or shooting your neighbor's dog, those would be covered under the criminal statutes.

Assemblyman Mortenson:

I was unaware of that. Then what is the point of this bill?

Vice Chairman Horne:

I missed the hearing, so I cannot answer that.

Assemblyman Goedhart:

One of the intents behind the bill was to include a fine to help with some of the economic damages associated with euthanizing an animal or burial or whatnot. If we did also include "emotional" damages up to a cap of \$5,000, it could be argued that in almost every case an owner who has a pet that is injured or killed could say there is at least that much emotional damage. That is something to keep in mind, as well.

Vice Chairman Horne:

The emotional part is a good thing in that I do not know of any pet owner who has not had a pet that has been ill or died and has not been emotionally affected. People who have pets generally have those types of attachments to them. They are not just inanimate objects that have a pulse roaming around the house or yard.

In the Senate, they took out the mental anguish and emotional distress provisions and also said that "punitive damages may not be awarded in an action brought under this section."

Assemblyman Carpenter:

I believe the bill has some merit despite all of the argument.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS
SENATE BILL 298 (R1).

Risa Lang:

The suggestion was to add "natural" before "person" so this would apply between two natural persons. In the exemptions in Section 4, we would add some language that would provide that this does not apply if a person is protecting himself or another.

[Chairman Anderson returns.]

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS
ABSENT FOR THE VOTE.)

Vice Chairman Horne:

Mr. Mortenson will take this on the Floor.

Chairman Anderson:

Let us open the hearing on Senate Bill 420 (1st Reprint).

Senate Bill 420 (1st Reprint): Makes various changes to provisions relating to property. (BDR 13-1305)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 420 (R1) was heard on May 9th. The bill is sponsored by Senator Lee, who presented the bill along with former probate commissioner, Don Ashworth. This measure makes various changes to the provisions governing trusts and estates, including spendthrift trusts, summary administration and small estates, and the rules of intestate succession. There are no amendments for the Committee to consider, and no one spoke in opposition to this bill.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS
SENATE BILL 420 (R1).

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS
ABSENT FOR THE VOTE.)

Chairman Anderson:

Assemblyman Segerblom will take this on the Floor. Are there any other issues
to come before the Committee? [There were none.]

We are adjourned [at 9:45 a.m.].

RESPECTFULLY SUBMITTED:

Danielle Mayabb
Committee Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 16, 2007

Time of Meeting: 8:16 a.m.

| Bill | Exhibit | Witness / Agency | Description |
|-------------|----------------|--|-----------------------|
| | A | ***** | Agenda |
| | B | ***** | Attendance Roster |
| | C | Jennifer Chisel, LCB Research Division | Work Session document |