

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session
April 23, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:39 a.m. on Thursday, April 23, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Terry Care, Chair
Senator Valerie Wiener, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Mike McGinness
Senator Maurice E. Washington
Senator Mark E. Amodei

GUEST LEGISLATORS PRESENT:

Assemblyman John Ocegüera, Assembly District 16

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Bradley A. Wilkinson, Chief Deputy Legislative Counsel
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Judy Stokey, Director, Government Affairs, NV Energy
Brian McAnallen, Director, Government Affairs, EMBARQ
Randy J. Brown, Director, Regulatory and Legislative Affairs, AT&T Nevada
Scott J. Stolberg, President, AAQEQ Manufacturers and Recyclers; Nevada Scrap Metal Processors Coalition
Terry Graves, Nevada Scrap Metal Processors Coalition
Joshua Martinez, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department

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Karen Storms, City Clerk, City of North Las Vegas
Karen Pearl, Executive Director, Nevada Telecommunications Association
Peter D. Krueger, Subcontractors Legislative Coalition
Samuel G. Bateman, Nevada District Attorneys Association

CHAIR CARE:

I will open the hearing on A.B. 233.

ASSEMBLY BILL 233 (1st Reprint): Makes various changes concerning scrap metal. (BDR 54-53)

JUDY STOKEY (Director, Government Affairs, Nevada Energy):

I am here in support of A.B. 233. As you know, copper and metal theft has been a huge issue in the State of Nevada and across the Nation. I would like to thank the Majority Leader and the parties who came together in the interim and worked extremely hard to come up with something everybody could live with. That included the utilities, municipalities, Las Vegas Metropolitan Police Department, law enforcement and the legitimate scrap metal dealers. We do want to make sure the legitimate scrap metal dealers have the ability to have a profitable business.

Copper theft is a growing criminal enterprise. It affects both public and private entities, from taking manhole covers all the way to taking utility wires, a danger that impacts the safety and security of our systems. Our customers end up paying for that in the long run. We have spent millions of dollars to replace the theft of copper.

CHAIR CARE:

The customers have to pay for that in the long run.

BRIAN McANALLEN (Director, Government Affairs, EMBARQ):

We support this legislation. We have been working on this for approximately one and a half years. While copper theft has been down and the price of copper has decreased, we anticipate that will follow the same pattern as always and yo-yo. Once the price of copper goes back up, and it showed a recent increase in the last few weeks, it could spike during the summer and we could be hit with significant theft.

I specifically wanted to draw your attention to section 12 of A.B. 233. It speaks to the destruction and removal of facilities or copper wire in the ground. The electric company and our system face significant amount of destruction of copper wiring in place. When that happens, we immediately receive customers who are out of service and inconvenienced. It also places many people at jeopardy in a public safety setting when they are unable to make a 911 telephone call or reach a physician. That becomes a challenge to our customers, and this legislation will increase the penalty for destruction and that sort of theft out of the ground. Other states have not focused on that as much, and I wanted to point out this benefit. We appreciate everybody who has come to the table to work on this, and I ask for your support.

CHAIR CARE:
Any questions?

RANDY J. BROWN (Director, Regulatory and Legislative Affairs, AT&T Nevada):
I do not want to repeat much of what has been said but agree with all of it. I have provided written testimony ([Exhibit C](#)) to the Committee.

AT&T has been directly impacted as a result of these copper thefts. As Mr. McAnallen stated, working copper lines have been stolen from our plant. I have shared photographs with most Committee members.

When a theft occurs, a small amount of metal is taken from our plant. It results in a small amount of gain for the thief when they take it to a recycler. But they do hundreds of thousands of dollars' worth of damage to the plant in man-hours and sewing back individual telephone lines on these large cables. It is a tremendous amount of damage.

We support whatever is necessary for law enforcement to identify, prosecute and convict those guilty of these crimes. We are not law enforcement experts, but we support whatever is required for them to do their job.

SENATOR AMODEI:
I see this bill is the first reprint. Could somebody share with me what the amendment was to get us to a reprint?

MR. BROWN:

The amendment was primarily in section 7.5 that relates to penalties imposed upon metal recyclers for not complying with the record-keeping requirements of this bill.

SENATOR AMODEI:

Are there no penalties applicable to those people for not keeping records, or is section 7.5 the only thing that does penalties?

MR. BROWN:

I cannot speak to that. I am aware of no other penalties in this bill. If there are other provisions in the *Nevada Revised Statutes* (NRS), I cannot speak to those.

ASSEMBLYMAN JOHN OCEGUERA (Assembly District 16):

Ironically, as we have gone through the first few months of this Session, the price of copper has risen almost 50 percent. This is timely. Some question the need because the price of copper had gone down considerably toward the beginning of the Session, but now it has raised back up. We will start to have these problems again.

Some testifiers will talk about the issues around the theft of copper from utilities to streetlights to ballpark lights, those kind of things, plus the damage done and the inability of law enforcement to track these people down. The industry has been very supportive of identifying, fingerprinting and photocopying, putting all types of systems into place.

I need to give the industry credit because they have come up with their own system of notifying each other and law enforcement when something comes in that looks unusual. I give them credit for trying to solve the problem themselves. Many people here can testify to the particulars of the bill.

SENATOR WIENER:

On page 4, section 5, subsection 1, paragraph (d) on line 4 of the bill, where you talk about what information is required, I see "name, street, house number and date of birth," and it gets very particular. As you know, I have done much work on identity theft. I am concerned what assurances we will have, especially when it is a legitimate seller, if this is what is needed to confirm, how will the identity of that person be protected? We are doing major legislation to protect identities in this Session. I am concerned about misuse and mishandling of that

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information, which could create substantial angst for the people who are required to provide it.

Also, I have learned of some concerns of what was referred to in prior testimony. On page 5, section 7.5, line 37, I notice a standard of "knowingly and willfully" in that particular reference.

Then on page 6, section 12, subsection 1, line 38, I see a "willfully and maliciously" standard. Could you address section 7.5, which was added, because some of us have been approached with concerns from the industry on that? Do you have some thoughts that would help us?

ASSEMBLYMAN OCEGUERA:

Section 7.5 was added in the Assembly Judiciary Committee. The Chair of the Assembly Committee on Judiciary thought it appropriate.

As far as the protection of personal information, I understand your concern. If we can tighten that up so there is a penalty or whatever you would advise on that, I would be happy to work with you.

SENATOR WIENER:

I am looking at section 13, subsections 1 and 2 on page 7 and see reference to an "intent" standard where a person intentionally steals or takes. I can understand "carries away," but I wonder who unintentionally steals something.

BRADLEY A. WILKINSON (Chief Deputy Legislative Counsel):

That language is patterned after all of the theft-type crimes in the NRS.

SENATOR WIENER:

With that, we make it an "intent" crime?

MR. WILKINSON:

Right. It is consistent with all of the other existing statutes.

SENATOR WIENER:

Thank you.

CHAIR CARE:

Mr. Stolberg, it seems you are the obvious candidate for this. We have heard the price of copper fluctuates; it has gone up 50 percent since the Session started, and this probably happens to some degree all of the time. Give us some idea, for purposes of legislative history, about the scope of this issue, what the problem is, what it was ten years ago, how it is now, what the targets are, and the amount of money we might be talking about.

SCOTT J. STOLBERG (President, AAEO Manufacturers and Recyclers; Nevada Scrap Metal Processors Coalition):

The price of copper fluctuates on the world market based on supply and demand. What happened last year was like many commodities and the weak United States dollar. The price of copper went to heights none of us could justify on a supply-and-demand case. It made the stealing of copper profitable.

In 2002 or 2003, the price of copper was \$1.35 a pound. It hit an all-time high of \$4.10 last July and fell to \$1.35 by November. That price is probably too low because the cost of getting it out of the ground is approximately \$1.50. We saw prices come back up into the \$1.60 to \$1.70 range, but we have recently seen it go from \$1.50 to \$2.20. We expect the profit motive to come back, and people are going to look for it.

CHAIR CARE:

Is scrap metal processor the appropriate term?

MR. STOLBERG:

Yes.

CHAIR CARE:

And you are with the Coalition. How many members is that, how many processors are there in southern Nevada?

MR. STOLBERG:

Eight members of our Coalition represent both northern and southern Nevada in the major metropolitan areas. There are probably a few more.

CHAIR CARE:

If I have copper and want to sell, I probably go to one of your eight members if I do it in this State?

MR. STOLBERG:
Yes.

CHAIR CARE:

You have had an opportunity to read the bill because your Coalition has worked on it. Is there anything in this bill you think imposes an unreasonable burden on your industry? Do the record-keeping aspects, the cash, \$150 or anything above that not in cash cause a problem?

MR. STOLBERG:

The only thing that concerns me with the one section you have talked about this morning is the criminalization of record-keeping violations. I understand there are administrative penalties for those things. There are penalties in this bill for knowingly or blindly buying things without trying to verify where it came from. Other than that, the other items in the bill are what we have worked on over the last six or eight months.

Many computerized systems have been developed nationwide. There is a driver's license scanner that drops the information into the correct field with the person's name, address, etc. We have cameras on our scales so when the materials are weighed, we take a picture. We get an average of seven pictures for every transaction. We also do much of this for our own internal security. Other than the one issue, there is not anything onerous to our industry.

CHAIR CARE:

As I read the bill, on page 4, section 5, subsection 1, paragraph (f), taking the fingerprint of the right index finger of somebody who comes into ...

MR. STOLBERG:

We are doing it electronically today. The systems we bought have a fingerprint reader. We put your finger on the scanner, it shows on the screen and we press save. If Officer Martinez or somebody comes in to check certain records, when we call the ticket back, it brings up the photographs and the fingerprint.

CHAIR CARE:

Even though it does not say or imply it in the bill do you ever get into conversations with people who come in to sell, asking things such as, "Where did you get this stuff?"

MR. STOLBERG:

We do that on an ongoing basis. If it is a business-to-business transaction, we are not concerned because we are paying a business directly, whether it is a plumber, electrician or rebar company. With individuals, if they are people we deal with on a regular basis, we probably question them a little less. But if people come in and we think it looks funny, we ask questions.

I had a situation the other day with two young men who had copper pipes. I looked at them and said, "Where did they come from?" And they said, "Our parents died, we are cleaning out the garage and we found them." We document that, put a copy with the ticket and then we are done. If the guy would have stuttered or stalled I might have been concerned, but he looked straight at me and gave me that answer.

CHAIR CARE:

I do not think there is a statutory duty to do it. Let us say he had stuttered, started sweating or whatever, do you ever tell someone in your office to call the police?

MR. STOLBERG:

We have a form we use with Metro. If we reject a load for any reason, we write it up and fax it over to the Construction Theft Detail, and then they follow up on the reject loads. Many times, we get items people cannot tell us where they came from. We had a guy the other day who told us he got his copper wire out of a dumpster. We said, "Well, that is probably where it should have been. It belongs to that dumpster company." We do not buy it.

CHAIR CARE:

Sounds like there is a working relationship between your industry and law enforcement.

MR. STOLBERG:

There is, and we are working on improving that. We have a meeting planned next Thursday in Las Vegas where we have invited all of the stakeholders. Our goal is to put together a group of stakeholders who can work together, communicate and educate each other. For example, we have asked the utilities to bring samples of items only they should be selling so we can get pictures and show it to our buyers. For example, Brian McAnallen of EMBARQ has some wire

that only EMBARQ should be selling; if it shows up at our door, we know not to buy it.

We have taken pictures of the backflow valves. There was a big problem with people stealing the brass backflow valves right from in front of your house or building. Now that our employees have pictures, they know only the water district is to sell those. If somebody shows up with one, we do not buy it.

CHAIR CARE:

You may have had your prepared testimony, but I thought we could jump right to the issue. There may be others who have similar questions.

SENATOR AMODEI:

Have you had any contact with the people at Nellis Air Force Base? When I was in the military, the market was so lucrative, people would go out on the ranges to get the ammunition going through the tank divisions. We prosecuted them. Has there been any of that with the military people in southern Nevada?

MR. STOLBERG:

I have not spoken with anybody from Nellis. I am not sure if there have been any issues with theft at Nellis. Typically, when the military gets ready to sell the shells, it is done by bid on Websites known as government liquidators. They will collect the items and then sign a contract with a recycler. The United States government gets the money.

SENATOR WIENER:

Maybe you could respond to my question about identity theft. We are in such an age that any and all protections we can initiate and promote are important.

MR. STOLBERG:

I agree with you. I worry about it myself. Our systems are password-protected so only the personnel with a need to be in the system have access. We do not gather other information like social security numbers, mothers' maiden names and things like that. The way our particular system works is if you come to sell us product and we have you in our system, we call you up. A picture of your driver's license pops up so we can verify you are the same person.

SENATOR WIENER:

Name and birth date are substantial too. That can lend to the others. I am concerned. I still may process this thought to ensure a greater protection.

MR. STOLBERG:

At one point, we had to send the drivers' licenses to our upstairs office to be scanned. We had people concerned because they did not want to have their driver's license out of their sight. I can speak for the members of our Coalition who all make sure we protect the information because it is there for us or law enforcement only.

SENATOR WIENER:

I may still be thinking about that. On section 7.5, you have concerns. Prior to this Committee meeting, you had mentioned in earlier remarks about administrative assessments in play. Should I interpret that you are amenable to administrative rather than criminal penalties in this section?

MR. STOLBERG:

The existing administrative penalties are fine with our Coalition. They seem to be doing the job. One of our concerns about the criminalization is who is the criminal, my employee or me?

TERRY GRAVES (Nevada Scrap Metal Processors Coalition):

One of the recyclers was cited for a rather minor infraction, so the ability to cite for record keeping is in existence.

SENATOR WIENER:

What was the penalty, Mr. Graves?

MR. GRAVES:

It has not been determined yet. It is a recent incident and has not gone to court.

Senator Amodei asked earlier about what amendments were added. There was also an amendment on section 7, which provides that you can only do one transaction with a seller for cash in one day. That was a concession to Metro, and we agreed.

Also under section 2, we added catalytic converters to the definition of scrap metal.

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We do find section 7.5 onerous. We would like to remove that section and have offered an amendment ([Exhibit D](#)).

CHAIR CARE:

I have the amendment as well as the other members of the Committee.

MR. GRAVES:

Correct.

CHAIR CARE:

Mr. Graves, I do not know if you have prepared testimony. We have jumped around.

MR. GRAVES:

Mr. Stolberg does. If you would like to hear that, we would put it on the record.

MR. STOLBERG:

I will read from my testimony ([Exhibit E](#)).

SENATOR AMODEI:

Is anybody from the Nevada District Attorneys Association going to testify?

CHAIR CARE:

That is the reason I have Mr. Martinez here. No one from the District Attorneys Association has signed up. Mr. Bateman has signed up but not to speak. I have some prosecutorial and enforcement questions.

SENATOR AMODEI:

Getting back to section 7.5, as you indicated in your testimony, is there something going on now for failure to keep records? In other words, if section 7.5 goes away, then you have a standard this is creating in terms of keeping records. That section says if you violate it, here is what happens to you. What is statute? You said somebody has been cited. What authority have they been cited under?

JOSHUA MARTINEZ (Office of the Intergovernmental Services, Las Vegas Metropolitan Police Department):

The existing law under NRS 647, the junk dealer section, requires record keeping. The individual was more than likely cited under that section. You have

to get a driver's license now and document the person's name, as well as what they have brought in. If they violated the existing law, they would have been cited, like a traffic citation. Every time they violate that, it would be a misdemeanor. The Assembly Judiciary Committee thought it may be appropriate to add stepped penalties because if a violator continues to violate, it will always be a misdemeanor.

SENATOR AMODEI:
What is the misdemeanor range?

MR. MARTINEZ:
The maximum is \$1,000 or six months in jail.

CHAIR CARE:
This bill would create a statutory definition of scrap metal processor. Right now, it is junk?

MR. MARTINEZ:
That is correct. It is a junk dealer under the existing law. What we are doing is looking to other states. Arizona was trying to be on the forefront of creating a new way of dealing with it, and they created a scrap metal definition. We also looked at Utah and what they have done. The recycling industry felt it would be appropriate to classify them as scrap metal processors and dealers.

CHAIR CARE:
Mr. Martinez, I wanted to walk through the bill. Some of these might be prosecutorial questions. Section 6 says "a peace officer or investigator who is involved in the investigation or prosecution of criminal activity," which I take to mean any criminal activity, "may place a written hold for not more than seven business days" As you see it, how does law enforcement end up at the site of a scrap metal processor and determine they need to place a written hold?

MR. MARTINEZ:
As Mr. Stolberg has stated, they go out to the yards now and be proactive by working with the businesses themselves. They look for anything suspicious in nature. Large, gray utility wires that the utility companies use and a big box of many small wires that may have been pulled out of a new home construction site or a home that had been burned would be suspicious types of material.

Large, gray utility wire is not something someone finds in the desert—or a dumpster. That is when we ask for a hold. A hold gives law enforcement time to investigate and use the record-keeping provision in A.B. 233 to locate the individual who brought it in. We could question them as to where they got the material.

CHAIR CARE:

You might get a call from one of the eight members of the Coalition or, for example, from the homebuilder who says, “Hey, we came out to the site at 5 o’clock this morning and we are missing whatever,” and you might go to the eight ...

MR. MARTINEZ:

Correct. That is where we are trying to develop the notice. We use the notice system now at Metro, but we are trying to make it more efficient with the help of the recycling industry.

In the summer of last year, we had several homeowners in the southwest part of Las Vegas who noticed their power was going out and the streetlights were fading. The homeowners looked outside and saw an individual using a vehicle to pull the wire out of the ground from government property. They called the police, and we were able to apprehend those individuals. That is a rare occasion. After long investigative measure, and trying to develop a relationship, which we have done with the recycling industry, metal theft is hard to identify. It is not like a vehicle with a vehicle identification number or any other product that has an identifiable mark. From the prosecuting standpoint, if we do not have a victim who could testify it was their property and that individual should not be in possession of it, it has been difficult for us to prosecute many of these cases.

That is why we have come to the Legislature this Session to help fix the existing junk section. One of the original sections we were looking at was including them in the secondhand dealer section of NRS 647. But we agreed with the recycling industry that they did not fit in that section because they are not pawn shops or similar to pawn shops. There is “hold” language in that section. That is how we came up with language in regard to holds for a seven-day period to give us time to find a suspect. The more suspects we put in jail for doing these crimes and hurting everybody’s constituents and

communities, making them go dark, will slow and curb the problem that exists from the north to the south.

CHAIR CARE:

If you make the determination within the seven days or the seven-plus days that the copper tubing is stolen, then Mr. Stolberg is out because he has paid for it.

MR. MARTINEZ:

That is correct. That is part of the reason we felt the hold could help protect, or if we educate the scrap industry to look out for certain material as Mr. Stolberg stated earlier, that will help save money. We understand they are victims; they have shown us they are also victims in this ongoing problem.

CHAIR CARE:

It puts the onus on the processor, and Mr. Stolberg touched on that. In section 7, where did the \$150 figure come from?

MR. MARTINEZ:

The \$150 figure was a compromise. Originally, with the utility industry and law enforcement in particular, we would have wanted payment in all checks because we felt checks gave us a way to track these individuals. Once cash is distributed, cash is gone and difficult or impossible to track. Arizona put in a \$300 threshold. Any transaction in Arizona over \$300 has to be paid and mailed to the individual at the address on their identification. Because of conversations with detectives in Arizona, they noticed many \$299 and less transactions. The product was not that much because the individuals wanted the cash immediately, either for the vices they may have, to pay a bill or get by for the day, as they go out every day to find this type of material. The recycling industry stated payment in all checks or a hold on payment would be a burden and create problems as in California. California passed legislation that requires a hold on payment. We decided \$150 would be a good start. Hopefully, since it is a lower threshold than Arizona, we will not experience the problems they have.

CHAIR CARE:

What are you going to do if Bob Jones who lives at 123 Elm Street shows up at Mr. Stolberg's place of business sells \$145 worth of scrap metal and five minutes later here comes Tom Jones who also lives at 123 Elm Street and he wants to sell \$145 worth of scrap metal. Is that when you say, "Wait a minute?"

MR. STOLBERG:

Yes. It comes down to us taking a look at what is going on and coming into our yard. Our goal is to screen material before it enters our area.

Speaking to the \$150: part of the problem the entire industry is based on is when the material is delivered and unloaded, you get paid. That includes on our level when we ship loads to the docks in Los Angeles or to a larger processor. Within three to five business days, we are paid. The whole industry functions on no delay in payment, as it is a commodities business, although many times on a small margin. The only way to make a profit is to turn your dollars.

The other issue is the cost of writing checks. It costs us approximately \$2.35 to write a check. If we have to pay every small transaction that way, it is a substantial cost increase to us. The \$150 limit covers the bulk of those small transactions.

The other concern we had with regard to checks is check fraud. We spend \$300 a month on a system called Positive Pay because we have had our checks cloned so many times we had no other choice but to implement a system similar to banks so we upload our checks every day to them. If the checks do not match, the banks do not pay them.

CHAIR CARE:

Mr. Martinez, section 12 of the bill gets to whether it is a misdemeanor, Category D felony, etc. We have statutes that discuss this in—petty larceny or shoplifting and destruction of property with spray paint in a park—a determination of how the value is derived. What is your understanding of how the value is calculated? Or is that something for the prosecutor?

MR. MARTINEZ:

We worked with the prosecutors regarding this section because we did not want to raise the threshold in the theft statute, saying anything over \$500 would be a greater penalty, when now anything over \$250 is a felony. Determining the value is where the victim would come into play. It is based off the value they paid for that product. It goes back to the training I had as a police officer in the academy. A check is only worth the price of the paper it is printed on until it is cashed. You have a baseball card you figure is worth \$1,500 because it is a great baseball card and that is what somebody told you. But, if you only paid \$1.50 for it, it is only worth \$1.50. It is up to the victim to

give us the value, as we do with any other investigation regarding theft we conduct.

CHAIR CARE:

If the copper is stolen, the price is doubled since the homebuilder purchased the copper. It is not replacement value but the purchase price?

MR. MARTINEZ:

It is the purchase price. Maybe Sam Bateman could speak to that, but I am relying on my training.

CHAIR CARE:

Did you want to add something Mr. Graves?

MR. GRAVES:

One of the big driving forces for the bill on behalf of the utilities was the included cost of the damage to the system from which material was stolen.

MR. MARTINEZ:

That is correct. In the bill, we have the section that deals with the damage of the property and the replacement cost. We also have the theft language. What we have done is combine theft with malicious destruction of private property.

CHAIR CARE:

If I rip those tubes out of an air conditioning unit or whatever, that is significant damage.

MR. MARTINEZ:

In 2008, we had 1,424 thefts and of those, 897 were metal-related. Every year since 2006, the figures have increased.

KAREN STORMS (City Clerk, City of North Las Vegas):

Prior to 2006, the theft of copper wire alone for city facilities and equipment was minimal. In 2006, that cost rose to over \$100,000. In 2007, it was over \$360,000, and it looks as though this year it will be well over \$400,000. The losses from thefts have a significant impact on the lives of the citizens we represent. Therefore, the City of North Las Vegas supports A.B. 233 as amended.

KAREN PEARL (Executive Director, Nevada Telecommunications Association):

I represent 11 of the 13 local exchange carriers or telephone companies in the State. I echo the statements made by the utilities earlier. Every one of my members has experienced damage because of copper theft. I also echo the support for the amendment of this bill.

PETER D. KRUEGER (Subcontractors Legislative Coalition):

I want to reiterate this is more than a copper wire theft bill, way more if you look at section 1, nonferrous metals. In the construction industry, we often are, as law enforcement referred to, the victims where building materials—be it wire, pipe, metal, aluminum, studs or siding—are stolen off our sites.

We are in support of this bill. We believe putting this at the local level for administration and prosecution is an excellent idea.

CHAIR CARE:

I show nobody in opposition to the bill. Mr. Wilkinson, in section 13, we have a breakdown of misdemeanor and Category C felony. If you have a chance, let the Committee know whether the language mirrors existing statutory language for other crimes of a similar nature. I am going to get into that exercise of whether it is a Category C felony, maybe it should be a Category D as opposed to a Category C or a B, or whatever. I do not need the answer to that today.

Mr. Bateman, you have not signed in to testify, but having heard the discussion, is there anything you would like to add?

SAMUEL G. BATEMAN (Nevada District Attorneys Association):

In response to your last question regarding section 13, to save Mr. Wilkinson some time, when we sat down with everyone involved, including Mr. Frierson from the Public Defender's Office, we made sure the categories of felony and the value elements were consistent with other theft statutes.

Section 12 is the malicious destruction charge. That is different than the other malicious destruction charges we have, but those are less consistent than the theft statute. If that helps at all, I can tell you that it is consistent with what we do elsewhere. The only difference is we include damage done in taking the property in that value element. Oftentimes, the property may be less than the value element required in a felony, but the destruction is so significant we thought it ought to be included. That would be consistent with a statute for

stealing from vending machines where we include the damage done to the vending machine. It is the nature of the crime that occurs; there is damage along with the actual theft. For everyone's information, that would be consistent.

SENATOR AMODEI:

Did you look at folding in receiving stolen property for what is in section 11?

MR. BATEMAN:

Receiving stolen property is also in the theft-related statute. It is possession of stolen property. Technically, we could potentially charge that particular statute. The statute, however, has a value element that in the general possession of stolen property statute would not include damage. What is important in this particular section and this specific statute is to incorporate the damage done in stealing the property into that value element. That is probably the only difference from a general theft statute or a general possession of stolen property statute. That is the important part from a prosecutorial standpoint.

SENATOR PARKS:

This is a general comment. It appears this bill will go into effect on October 1. Due to the likelihood of summer theft, might we want to consider getting testimony or feedback regarding an effective date of July 1?

CHAIR CARE:

I commend all of you who worked on this during the interim.

I will close the hearing on A.B. 233 and open the hearing on A.B. 477.

ASSEMBLY BILL 477: Exempts a person who works for a landlord of a dwelling unit used for a residence for older persons from an additional background check. (BDR 10-100)

CHAIR CARE:

I will open the hearing on A.B. 517 while we wait to see if Assemblywoman McClain wants to testify on A.B. 477.

ASSEMBLY BILL 517: Provides that terms defined in the Nevada Revised Statutes have the same definitions in the corresponding portions of the Nevada Administrative Code. (BDR 0-663)

MR. WILKINSON:

Mr. Chair, all we are stating is the terms used in NRS, unless a specific statute provides otherwise, will have the same meaning in the *Nevada Administrative Code* (NAC). That is something we have operated under for many years, but there is no law that specifically states that is the case. If this bill were enacted, it would so provide.

SENATOR WIENER:

What would the mechanics of this be if there is antiquated language? Would this mean going back and scouring to ensure continuity? Would this be a big project? You said for several years, there were inconsistencies?

MR. WILKINSON:

Yes. That is actually addressed in section 2. When we are preparing the reprints and working on the regulations, it is anticipated we would check with an agency and confirm it would be okay to remove any definitions. But when we get new regulations, an issue is whether we add new sections that define terms. If this passed, we would not need to do that and we could, while we were in the course of working on regulations, remove any unnecessary definitions from the NAC.

CHAIR CARE:

Any questions of the Committee? The Chair will entertain a motion.

SENATOR WIENER MOVED TO DO PASS A.B. 517.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR CARE:

In light of nobody stepping forward and no response despite our overtures, we

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will vacate the hearing on A.B. 477. If we get approached again, we will look at rescheduling.

The Committee is adjourned at 9:49 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: _____