

The meeting was called to order at 9:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Sloan
Senator Dodge
Senator Raggio
Senator Don Ashworth
Senator Ford

ABSENT: None

SB 228 Prohibits certain acts involving personal property whose manufacturer's identification mark has been covered, altered, defaced or removed.

Keith Henrikson, representing Desert States Kirby Vacuum Dealer's Legal Fund, testified in support of this measure. He stated that this was designed to reach a problem wherein truckloads of small appliances, i.e. vacuum cleaners, are highjacked, the serial numbers are removed, and they are then sold in retail stores for half their actual price. Without serial numbers, the items are untraceable and there is nothing that the law enforcement community can do about it.

Mr. Henrikson informed the committee that California has had similar legislation for several years.

Senator Dodge stated that the word "knowingly" does not necessarily indicate that the retail purchaser knows that he is involved in a conspiracy. The store owner may give him an explanation of why the serial number is off and the purchaser would buy the item in good faith. He questioned the public policy of placing the burden on the consumer in that type of situation.

Senator Raggio suggested making the buying or selling of items in which the identification mark has been covered, etc., prima facia evidence.

Senator Dodge concurred with that and further suggested that it be tied in with NRS 205.275, the buying or receiving of stolen goods.

Michael Malloy, Assistant District Attorney, Washoe County, testified that he was opposed to the bill as presently written. He agreed with Senators Raggio and Dodge remarks concerning making it prima facia evidence. He stated that although that would not be going as far as having proof

beyond a reasonable doubt, it would legitimize an arrest for probable cause.

Rick Ahlswede, Clark County Public Defender, concurred with Mr. Malloy's comments.

James L. Wadhams, Director, Department of Commerce, testified in support of this measure. He informed the committee that NRS 598.410, the deceptive trade practices statute, covered some of the items listed in SB 228. He suggested that they review the two together.

Senator Raggio disagreed and stated that the deceptive trade practices goes only to that; it does not go to the stolen goods situation.

Senator Ashworth stated that he would prefer to keep it a separate offense but that he would like to narrow it down to pertain only to the retail or wholesale distributor.

The committee requested Frank Daykin, Legislative Counsel Bureau, review possible amendments to this bill.

Senator Raggio informed Mr. Daykin that it was the consensus of the committee to narrow this to reach the retailer who is trafficking in stolen goods, rather than the ultimate purchaser; and to perhaps make it prima facia evidence which would be tied to the stolen property statute.

Mr. Daykin stated that it would be possible to do all of the above by using the "reasonable man" standard and applying it to the stolen property statute. He also stated that it could be narrowed to the retailer by applying it to individuals selling items with "3 or more on hand at any one time."

Senator Ford expressed concern over the use of "name plate" or "any other distinguishing mark." She felt it should be tied to the serial number or other manufacturer's identification mark which specifically identifies a certain item.

After further discussion, it was the decision of the committee to amend SB 228 as above and to limit the identification mark as follows: "A permanently affixed manufacturer's name plate, serial number, or other manufacturer's identification mark which has been altered, defaced or removed."

Senator Ford moved to report SB 228 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously.

AB 159 Limits hearsay exception for statements against interest.

Michael Malloy, Assistant District Attorney, Washoe County, testified in support of this measure. He stated that this addresses the problem of a criminal defendant on trial who brings forth an independent witness; where that witness testifies that he heard yet another party, who is not in court, say that he (the other party) committed the crime. This bill would prevent that admissibility unless there were corroborating circumstances clearly indicating the trustworthiness of the statement.

Senator Sloan expressed concern that this goes to the admissibility of the statement, rather than the weight of the evidence. He felt that it should be left up to the jury to analyze the statements made.

Senator Close stated that he has heard that there have been problems in Clark County with the hearsay declarant, in that it establishes a reasonable doubt in the mind of the jury without having any corroborating evidence.

Senator Dodge moved that AB 159 be reported out of committee with a "do pass" recommendation.

Seconded by Senator Raggio.

Motion carried. The vote was as follows:

VOTING AYE:.

VOTING NO:

Senator Close
 Senator Hernstadt
 Senator Dodge
 Senator Raggio
 Senator Ford

Senator Sloan

ABSENT FROM THE VOTE: Senator Don Ashworth

AB 157 Resolves conflict concerning county clerk's fees in small estates of decedents.

Frank Daykin, Legislative Counsel Bureau, informed the committee that this was a revisor's bill arising from the 1975 Session where a provision was made in the probate laws for probating estates of less than \$5,000. This would make the necessary corresponding change in the county clerk's fees.

Senator Dodge moved that AB 157 be reported out of committee with a "do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously.

AB 208 Ratifies technical corrections made to various chapters of NRS.

Frank Daykin, Legislative Counsel Bureau, testified that this ratifies technical corrections which were made in the NRS to resolve conflicts between bills of the 1977 Session.

Senator Hernstadt moved that AB 208 be reported out of committee with a "do pass" recommendation.

Seconded by Senator Ford.

Motion carried unanimously.

SB 100 Revises formula for determining amount of district judges' pensions.

Senator Ashworth moved that SB 100 be re-referred to the committee on Finance.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senator Dodge was absent from the vote.

SB 105 Clarifies procedures and requirements for disclaimers of property interests.

For testimony and further discussion on this measure, see the minutes of the meetings for January 30, February 5, 9, and 26.

The committee reviewed Amendment 239 (see attached Exhibit A).

Section 9: Senator Ashworth stated that most wills and trusts have a "spendthrift" provision which provides that the will cannot be assigned, anticipated, factored, etc. This section provides that if there is such a provision, it will have no effect on the disclaimer.

Section 10: Senator Ashworth stated that this provision had been put in by the Nevada Bar Association and that it was his opinion that if it is applicable, it could cause

some problems. He reminded the committee that the main purpose of this measure was to bring Nevada in line with Section 2818 of the Internal Revenue Code, pertaining to disclaimers.

There was some confusion as to the meaning of "no interest which has arisen before the effective date of this act, in any person other than the beneficiary, is destroyed or diminished by any act of the disclaimant taken pursuant to this chapter."

Senator Raggio suggested that the committee get an example of how this would work in practice before taking action.

Section 11: Senator Ashworth stated that what this section would do, would be to declare what the existing law and policy of the state is; it would say that common law did not control.

Senator Close stated that that is untrue in that it is not the present law but rather the proposed law. He felt that this would make this bill retroactive and in view of that, it should be deleted.

It was the consensus of the committee to delete Section 11. The bill will have to be further amended to reflect the deletion of Section 11.


Senator Hernstadt moved to amend and re-refer SB 105 to this committee for final review and action.

Seconded by Senator Ashworth.

Motion carried unanimously. Senator Dodge was absent from the vote.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Cheri Kinsley, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman

1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Senate		AMENDMENT BLANK
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to <u>Senate</u>		
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>			
Date:		Date:		Bill No. <u>105</u>	Joint	Resolution No.
Initial:		Initial:		BDR <u>10-418</u>		
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	Proposed by <u>Committee on Judiciary</u>		
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>			
Date:		Date:				
Initial:		Initial:				

Amendment No. **239**



Amend section 1, page 1, line 2, by deleting "12," and inserting:
"10,".

Amend section 2, page 2, line 1, by deleting "on his" and
inserting a period.

Amend section 2, page 2, by deleting line 2.

Amend section 3, page 2, line 3, by inserting after "beneficiary"
the words "who is 18 years of age or over and competent".

Amend the bill as a whole, by deleting section 4 and renumbering
sections 5 through 11 as sections 4 through 10.

Amend section 5, page 2, line 19, by deleting "will or by
inter vivos gift," and inserting "will,".

Amend section 5, page 2, by deleting line 20 and inserting:
"9 months after the death of the person creating the interest.".

Amend section 5, page 2, by inserting between lines 22 and 23:

To: E & E
LCB File
Journal
Engrossment
Bill

Date 3-5-79 Drafted by JW:sl

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"(c) In case of interests created by inter vivos trust, within 9 months after the interest becomes indefeasibly fixed."

Amend section 5, page 2, line 23, by deleting "(c)" and inserting "(d)".

Amend section 5, page 2, line 24, by deleting "disclaim, or within 9 months" and inserting "disclaim."

Amend section 5, page 2, by deleting line 25.

Amend section 5, page 2, line 26, by deleting "(d)" and inserting "(e)".

Amend section 5, page 2, by deleting lines 28 through 33 and inserting "created by the donee of the power."

Amend section 5, page 2, line 35, by deleting "disclaimer" as it first appears in the line and inserting "disclaimant".

Amend section 6, page 2, line 50, by deleting "filed with" and inserting "furnished to".

Amend section 6, page 3, line 2, by deleting "district court in" and inserting "county clerk of".

Amend section 6, page 3, line 5, by deleting the period and inserting ", or if there is none, with the county clerk of the county where the settlor resides, or if the settlor is dead, where he last resided."

Amend section 7, page 3, line 19, by inserting after "disclaim." the words "The waiver must be filed in the same place as the disclaimer would have been filed."

Amend section 7, page 3, by deleting lines 22 through 30.

Amend section 8, page 3, line 34, by inserting a comma after the word "disclaimed".

Amend section 8, page 3, by deleting line 36 and inserting: "tion of the interest disclaimed shall descend, go, be distributed or continue".

Amend section 8, page 3, line 39 by deleting "and no interest shall" and inserting a period.

Amend section 8, page 3, by deleting line 40.

Amend section 9, page 3, by deleting line 43 and inserting: "clude a beneficiary from there-".

Amend section 9, page 3, line 48, by deleting "he, or someone" and inserting "he:".

Amend section 9, page 3, by deleting line 49.

Amend section 9, page 4, line 5, by deleting the comma and inserting a period.

Amend section 9, page 4, by deleting lines 6 and 7.

Amend section 11, page 4, line 11, by inserting after "act" the words "which has not been accepted".

Amend section 11, page 4, line 12, by deleting "chapter, but no interest" and inserting "chapter.".

Amend section 11, page 4, by deleting lines 13 through 15.

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Amend the bill as a whole, by deleting section 12 and renumbering section 13 as section 11.

Amend the title of the bill, by deleting line 2 and inserting:
"requirements for valid disclaimers and waivers of".

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SENATE BILL NO. 228—SENATOR KOSINSKI

FEBRUARY 14, 1979

Referred to Committee on Judiciary

SUMMARY—Prohibits certain acts involving personal property whose manufacturer's identification mark has been covered, altered, defaced or removed. (BDR 16-1115)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to crimes against property; prohibiting certain acts involving personal property whose manufacturer's identification mark has been covered, altered, defaced or removed; providing a penalty; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 205 of NRS is hereby amended by adding
- 2 thereto a new section which shall read as follows:
- 3 *Every person who knowingly buys, sells, receives, disposes of or con-*
- 4 *ceals any personal property from which a manufacturer's nameplate,*
- 5 *serial number or any other distinguishing number or identification mark*
- 6 *has been covered, altered, defaced or removed is guilty of a misde-*
- 7 *meanor. This section does not apply to motor vehicles.*

ASSEMBLY BILL NO. 159—COMMITTEE ON JUDICIARY

JANUARY 22, 1979

Referred to Committee on Judiciary

SUMMARY—Limits hearsay exception for statements against interest. (BDR 4-390)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to hearsay; limiting the admissibility of certain statements against interest; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 51.345 is hereby amended to read as follows:
2 51.345 1. A statement which at the time of its making:
3 (a) Was so far contrary to the declarant's pecuniary or proprietary
4 interest;
5 (b) So far tended to subject him to civil or criminal liability;
6 (c) So far tended to render invalid a claim by him against another; or
7 (d) So far tended to make him an object of hatred, ridicule or social
8 disapproval,
9 that a reasonable man in his position would not have made the statement
10 unless he believed it to be true is not inadmissible under the hearsay rule
11 if the declarant is unavailable as a witness. *A statement tending to expose*
12 *the declarant to criminal liability and offered to exculpate the accused in*
13 *a criminal case is not admissible unless corroborating circumstances*
14 *clearly indicate the trustworthiness of the statement.*
15 2. This section does not make admissible a statement or confession
16 offered against the accused [in a criminal case,] made by a codefendant
17 or other person implicating both himself and the accused.

ASSEMBLY BILL NO. 157—COMMITTEE ON JUDICIARY

JANUARY 22, 1979

Referred to Committee on Judiciary

SUMMARY—Resolves conflict concerning county clerk's fees in small estates of decedents. (BDR 2-290)

FISCAL NOTE: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to estates of decedents; resolving a conflict concerning fees charged by the county clerk in small estates; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

1 SECTION 1. NRS 19.013 is hereby amended to read as follows:
2 19.013 1. Each county clerk shall charge and collect the following
3 fees:
4 On the commencement of any action or proceeding in the
5 district court, or on the transfer of any action or pro-
6 ceeding from a district court of another county,
7 except probate or guardianship proceedings, in addi-
8 tion to the court fee now provided by law, to be
9 paid by the party commencing the action, proceeding
10 or transfer..... \$32.00
11 On an appeal to the district court of any case from a
12 justice's court or a municipal court, or on the trans-
13 fer of any case from a justice's court or a municipal
14 court, in addition to the court fee now provided by
15 law..... 20.00
16 On the filing of a petition for letters testamentary, or of
17 administration or guardianship, which fee shall
18 include the court fee now provided by law, to be
19 paid by the petitioner:
20 Where the stated value of the estate is more
21 than [\$1,000 and less than \$5,000..... 25.00
22 Where the stated value of the estate is \$5,000
23 or more] \$5,000..... 50.00

Original bill is 3 pages long.
Contact the Research Library for
a copy of the complete bill.

ASSEMBLY BILL NO. 208—COMMITTEE ON JUDICIARY

JANUARY 25, 1979

Referred to Committee on Judiciary

SUMMARY—Ratifies technical corrections made to various chapters of NRS.
(BDR S-107)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to statutes; ratifying technical corrections made to various chapters of NRS; correcting the effective date of and repealing certain provisions in Statutes of Nevada 1977; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Section 9 of chapter 759, Statutes of Nevada 1975, at
2 page 1796, is hereby amended to read as follows:
3 Sec. 9. NRS 244.207 is hereby amended to read as follows:
4 244.207 1. Notwithstanding any other provision of law, the
5 boards of county commissioners [of counties whose population is
6 less than 200,000, as determined by the last preceding national
7 census of the Bureau of the Census of the United States Depart-
8 ment of Commerce,] shall have power and jurisdiction in their
9 respective counties to establish by ordinance central receiving and
10 disbursing systems for the handling of county moneys and moneys
11 held in trust by the county or by any of its elected or appointed
12 officers. Such systems may include, but are not limited to, the
13 following:
14 (a) The commingling of all moneys from any source whatsoever,
15 provided that the accounting system employed supplies full informa-
16 tion concerning the sources of the moneys.
17 (b) The elimination of departmental bank accounts, *or accounts*
18 *in insured savings and loan associations which are stock companies*
19 *and not mutual associations*, provided for in NRS 356.200 by
20 commingling such moneys in [a bank] *an account or accounts*
21 maintained by the county treasurer.
22 (c) The elimination of trust bank accounts created for any
23 reason whatsoever, as long as adequate records are maintained to