

1999 SENATE TRANSPORTATION

SB 2345

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2345

Senate Transportation Committee

Conference Committee

Hearing Date January 28, 1999

Tape Number	Side A	Side B	Meter #
1	x		1-1856
2	x		3,945-4285
Committee Clerk Signature <i>Ari D. Schaeffer</i>			

Minutes:

SENATOR B. STENEHJEM opened the hearing on SB 2345. Committee members present included: Sens. Bob Stenehjem, R. Schobinger, D. Mutch, D. Cook, D. O'Connell, V. Thompson, and D. Bercier.

SENATOR WAYNE STENEHJEM I appear as the prime sponsor for SB 2345 which I introduce to you at the request of a Grand Forks prosecutor. There is a discrepancy in the Century Code relating to who can draw blood for the purpose of a DUI. I urge for a Do Pass.

GARY EUREN, GRAND FORKS There are two different statutes that have two different lists of people who can draw blood. Chemists are allowed to draw blood but are never trained to draw blood. There was a person who drew blood earlier this year with a title of CLS (a clinical laboratory scientist). This is a four year old name for medical technologist. We were getting challenges in court because this name is not included in the bill. We also have an amendment to

propose to the bill. There are three or four different sections of the Century Code that need this language. The state toxicologist would be required to determine who would be qualified.

(He explained the use of the amendments and change of language).

SENATOR THOMPSON Have people gotten out of cases because of these discrepancies?

GARY EUREN Yes. In administrative action, there have been some licensing hearings dismissed due to the fact that the person drawing the blood was a designated CLS.

KEITH MAGNUSSON, DEPARTMENT OF TRANSPORTATION testified in support of SB 2345. We think this will clear things up for both a criminal trial and an administrative hearing. The state toxicologist is the person to determine who is medically qualified to draw blood.

SENATOR THOMPSON There is a bill in the house to do away with administrative penalties on a DUI. Does this have any effect if that were to pass?

KEITH MAGNUSSON If that were to pass, we wouldn't have as many hearings, but this bill will be good for a number of other hearings such as implied consent for snowmobiles or boating.

SENATOR THOMPSON For those who support that piece of legislation, we still need this bill to clear things up, correct?

KEITH MAGNUSSON That is correct.

SENATOR O'CONNELL I don't understand the legal aspect of drawing blood.

KEITH MAGNUSSON If someone unqualified draws blood and is not qualified meaning they may not use the correct kit or solution. The whole blood test will be thrown out.

SENATOR B. STENEHJEM How many administrative hearings for a driver's license do you have in a year?

KEITH MAGNUSSON About 1,000.

SENATOR B. STENEHJEM Can you go through how an administrative process works?

KEITH MAGNUSSON An officer has to have a reason to stop someone-they must go through a number of tests. At that point, the administrative process starts and the criminal citation starts the criminal part. The administrative process is required to get the driver's license or driver off the road. It affects their driving privilege. The process is done within 30 days. The criminal process puts the person in jail.

SENATOR B. STENEHJEM What's an administrative hearing? Who's involved?

KEITH MAGNUSSON The director of the Department of Transportation has hired hearing officers-they make the final decision or may make a recommended decision. We have five hearing officers around the state. The hearing officer brings in the law enforcement officer. The officer needs to show a valid stop, probable cause, and evidence of the test. There are questions on if the accused is administratively found guilty but through a criminal trial is found innocent. What happens?

GARY EUREN Even if the House Bill passes there are many other cases involved in this. This provides a procedure so everyone will know what that means. It is a burden of proof.

SENATOR B. STENEHJEM We will close the hearing on SB 2345.

SENATOR O'CONNELL I will move to pass the amendments proposed for SB 2345.

SENATOR SCHOBINGER I will second that amendment.

The amendment passed unanimously.

Committee Discussion - Tape 2, Side 1 Meter #3944

SENATOR SCHOBINGER I move for a Do Pass as Amended.

SENATOR BERCIER I second that motion.

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Senate Transportation Committee

Bill/Resolution Number Sb 2345

Hearing Date January 28, 1999

Roll call vote was taken (7 Yeas, 0 Nays, and 0 Absent and Not Voting).

Senator Thompson will carry SB 2345.

Type overstrike " — " original amendment proposed

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2345**

-Page 1, line 10, remove "including" and overstrike "a physician."

✓Page 1, line 11, overstrike "qualified technician, chemist, or registered nurse" and remove ,

✓Page 1, line 13, after "blood." insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse or their abbreviations."

Page 1, line 15, remove "including", overstrike "a physician.", overstrike "qualified technician, chemist.", and overstrike "registered nurse, or"

Page 1, line 16, overstrike "other qualified person"

Page 2, line 16, remove "including" and overstrike "a physician."

Page 2, line 17, overstrike "qualified technician, chemist, or registered nurse" and remove ,

Page 2, line 19, after "blood." insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse or their abbreviations."

Page 2, line 21, remove "including", overstrike "a physician.", overstrike "qualified technician, chemist.", and overstrike "registered nurse, or"

Page 2, line 22, overstrike "other qualified person"

Page 3, line 16, remove "including", overstrike "a physician.", and overstrike "qualified"

Page 3, line 17, overstrike "technician, chemist, or registered nurse" and remove ,

Page 3, line 19, after "therein." insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse or their abbreviations."

Page 3, line 20, remove "including" and overstrike "a physician."

Page 3, line 21, overstrike "qualified technician, chemist," and overstrike "registered nurse, or other qualified person"

Page 4, line 14, remove "including" and overstrike "a physician."

Page 4, line 15, overstrike "qualified technician, chemist, or registered nurse" and remove ,

Page 4, line 17, after "blood." insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse or their abbreviations."

Page 4, line 19, remove "including", overstrike "a physician,", overstrike "qualified technician, chemist,", and overstrike "registered nurse, or other qualified"

Page 4, line 20, overstrike "person"

Renumber accordingly

Date: \_\_\_\_\_  
Roll Call Vote #: /

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2345**

Senate Transportation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Sen. Schobinger Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenejem-Chairman	X				
Sen. R. Schobinger-V. Chair	X				
Sen. Duane Mutch	X				
Sen. Dwight Cook	X				
Sen. David O'Connell	X				
Sen. Vern Thompson	X				
Sen. Dennis Bercier	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Thompson

If the vote is on an amendment, briefly indicate intent:



REPORT OF STANDING COMMITTEE

SB 2345: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2345 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "an individual medically qualified to draw blood, including" and overstrike "a physician,"

Page 1, line 11, overstrike "qualified technician, chemist, or registered nurse" and insert immediately thereafter "an individual medically qualified to draw blood"

Page 1, line 12, after "officer" insert an underscored comma

Page 1, line 13, after the period insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse."

Page 1, line 14, remove "an individual medically qualified"

Page 1, line 15, remove "to draw blood, including", overstrike "a physician,", overstrike "qualified technician, chemist,", remove "or", and overstrike "registered nurse, or"

Page 1, line 16, overstrike "other qualified person" and insert immediately thereafter "an individual" and after "choosing" insert ", who is medically qualified to draw blood,"

Page 2, line 16, remove "an individual medically qualified to draw blood, including" and overstrike "a physician,"

Page 2, line 17, overstrike "qualified technician, chemist, or registered nurse" and insert immediately thereafter "an individual medically qualified to draw blood"

Page 2, line 18, after "officer" insert an underscored comma

Page 2, line 19, after the period insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse."

Page 2, line 20, remove "an individual medically qualified"

Page 2, line 21, remove "to draw blood, including", overstrike "a physician,", overstrike "qualified technician, chemist,", remove "or", and overstrike "registered nurse, or"

Page 2, line 22, overstrike "other qualified person" and insert immediately thereafter "an individual" and after "choosing" insert ", who is medically qualified to draw blood,"

Page 3, line 16, remove "an individual medically qualified to draw blood, including", overstrike "a physician,", and overstrike "qualified"

Page 3, line 17, overstrike "technician, chemist, or registered nurse" and insert immediately thereafter "an individual medically qualified to draw blood" and after "officer" insert an underscored comma

Page 3, line 19, after the first period insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse."

Page 3, line 20, remove "an individual medically qualified to draw blood, including" and overstrike "a physician,"

Page 3, line 21, overstrike "qualified technician, chemist,", remove "or", and overstrike "registered nurse, or other qualified person" and insert immediately thereafter "an individual"

Page 3, line 22, after "choosing" insert ", who is medically qualified to draw blood,"

Page 4, line 14, remove "an individual medically qualified to draw blood, including" and overstrike "a physician,"

Page 4, line 15, overstrike "qualified technician, chemist, or registered nurse" and insert immediately thereafter "an individual medically qualified to draw blood"

Page 4, line 16, after "officer" insert an underscored comma

Page 4, line 17, after the period insert "The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse."

Page 4, line 18, remove "an individual medically qualified to draw blood,"

Page 4, line 19, remove "including", overstrike "a physician,", overstrike "qualified technician, chemist,", remove "or", and overstrike "registered nurse, or other qualified"

Page 4, line 20, overstrike "person" and insert immediately thereafter "an individual" and after "choosing" insert ", who is medically qualified to draw blood,"

Renumber accordingly

1999 HOUSE TRANSPORTATION

SB 2345

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2345

House Transportation Committee

Conference Committee

Hearing Date March 4, 1999

Tape Number	Side A	Side B	Meter #
1		x	0-7.0
Committee Clerk Signature <i>J. M. Menden</i>			

Minutes:

CHAIRMAN KEISER OPENED THE HEARING ON SB 2345; A BILL RELATING TO BLOOD TESTS FOR DRIVING WHILE UNDER THE INFLUENCE.

SENATOR WAYNE STENEHJEM, Dist. 42, introduced SB 2345. He said that it simply makes a listing for those who are authorized to draw blood.

CHAIRMAN KEISER noted that it expands the group but is still restricted by the State Toxicologist.

REP. MEYER asked if this includes veterinarians?

SEN. STENEHJEM said he was doubtful.

BRUCE MURRY, Staff Attorney for the DOT, testified in support of SB 2345. He said that the department favors this.

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House Transportation Committee

Bill/Resolution Number Sb 2345

Hearing Date March 4, 1999

GARY ERREE, Grand Forks City Prosecutor, testified in support of SB 2345. He noted that in its original form, the bill provides inconsistent language and that also the Medical Technology field has been changed to Clinical Laboratory Sciences. The title is now a Certified Laboratory Technologist.

REP. MEYER asked if medically qualified is listed in the bill?

GARY said that this bill simply allows the State Toxicologist to maintain a list of those who are so if changes occur, the list can be made to accommodate it.

CHAIRMAN KEISER CLOSED THE HEARING ON SB 2345.

GENERAL DISCUSSION TOOK PLACE.

COMMITTEE ACTION

REP. KELSCH moved a DO PASS on SB 2345. REP. BELTER seconded the motion. The motion carried.

ROLL CALL - 13 YEA, 0 NAE, 2 ABSENT AND NOT VOTING.

FLOOR ASSIGNMENT - REP. SVEEN

Date: 3/4  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2385

House Transportation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Rep Keiser Seconded By Rep Belter

Representatives	Yes	No	Representatives	Yes	No
Representative Keiser, Chair	✓		Representative Thorpe	✓	
Representative Mickelson, V. Ch.	✓				
Representative Belter	✓				
Representative Jensen	✓				
Representative Kelsch	✓				
Representative Kempenich	✓				
Representative Price	✓				
Representative Sveen	✓				
Representative Weisz	✓				
Representative Grumbo	✓				
Representative Lemieux	✓				
Representative Mahoney					
Representative Meyer	✓				
Representative Schmidt					

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Sveen

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
**March 4, 1999 11:22 a.m.**

**Module No: HR-39-4015**  
**Carrier: Sveen**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2345, as engrossed: Transportation Committee (Rep. Keiser, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2345 was placed on the Fourteenth order on the calendar.**