

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2402

2005 SENATE JUDICIARY

SB 2402

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2402

Senate Judiciary Committee

Conference Committee

Hearing Date February 7, 2005

Tape Number	Side A	Side B	Meter #
1		X	4725 - End
Committee Clerk Signature <i>Mona L. Salby</i>			

Minutes: Relating to theft of firearms.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Sen. David O'Connell, Dist #6 Introduced the bill (meter 4740) Grand Forks, Fargo, Bismarck, and Minot police officers have come to me with there concerns of stolen firearms during a drug activity. This bill came to me at the last minute of the last hour so I have not had much time to research it. I am dropping this in your lap.

Senator Triplett asked if he had discussed this bill with the Attorney General's office? No

Testimony in Opposition of the Bill:

none

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2402

Hearing Date February 7, 2005

The committee discussed a firearm verses an explosive device. They are looking for more information on Firearm definition and what "possession" meant. Definitions provided - Att. #1 and Att. #2

The committee discussed what a class C penalty does. It takes it from a class B to a Class C taking it from a five year sentence to a 10 year sentence.

The bill at hand is missing page 2 and the committee requested a corrected bill.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2402

Senate Judiciary Committee

Conference Committee

Hearing Date February 9, 2005

Tape Number	Side A	Side B	Meter #
1	X		2340 -2550
Committee Clerk Signature <i>Mina L. Solberg</i>			

Minutes: Relating to theft of firearms.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following:

The committee discussed that a "meth addict" or perpetrator is usually not clearly thinking at the time of offense and that a penalty either being 5 years instead of 10 would not enter into there head at the time. This bill sounds more like a negotiating tool for the prosecutor and would only increase the already bulging prison population

Sen. Trenbeath made the motion to Do Not Pass and **Senator Hacker** seconded the motion.

All were in favor and the motion passes.

Carrier: **Sen. Trenbeath**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 2/9/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2402

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. Trenbeath Seconded By Sen. Hacker

Senators	Yes	No	Senators	Sen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson		✓	
Senator Syverson	✓		Senator Triplett		✓	
Senator Hacker	✓					
Trenbeath	✓					

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Trenbeath

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

REPORT OF STANDING COMMITTEE (410)
February 9, 2005 10:41 a.m.

Module No: SR-26-2270
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2402: Judiciary Committee (Sen. Traynor, Chairman) recommends DO NOT PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2402 was placed on the
Eleventh order on the calendar.

2005 TESTIMONY

SB 2402

AH #1

FIREARM DEFINITION

12.1-01-04. General definitions. As used in this title, unless a different meaning plainly is required:

10. "Firearm" means any weapon which will expel, or is readily capable of expelling, a projectile by the action of an explosive and includes any such weapon, loaded or unloaded, commonly referred to as a pistol, revolver, rifle, gun, machine gun, shotgun, bazooka, or cannon.

AH #2

1994

NDJI-CRIMINAL

K - 22.42

Possession

Possession may be actual or constructive and may be proven by direct or circumstantial evidence.

A person who knowingly has direct physical control over an object is in actual possession of it.

A person who knowingly has the ability and intent to exercise control over an object is in constructive possession of it.

[Two or more persons may simultaneously possess the same object.]

In Interest of K.S., 500 NW2d 603, 606 (ND 1993)
State v. Connery, 441 NW2d 651, 655 (ND 1989)