

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:30 A.M. on March 14, 2011, in Room 548-S of the Capitol.

All members were present, except Senators Bruce, Donovan and Haley, who were excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Whitney Damron, City of Topeka and others
Ed Klumpp, Ks Assn of Chiefs of Police, Ks Sheriffs Assn, Ks Peace Officers Assn
Victor Elazegui, Jr., Westar
Kyle Smith, Office of the Attorney General
Ron Miller, Chief of Police, City of Topeka
Raynard Brown, President, Advantage Metals
Bud Burke, Issues Management Group, Advantage Metals

Others attending:

See attached list.

The Chairman opened the hearings on **HB 2312 -- Regulated scrap metal; licensing scrap metal dealers; unlawful acts; criminal penalties.**

Jason Thompson, Staff Revisor, reviewed the bill.

Whitney Damron submitted testimony in support of **HB 2312** (Attachment 1). He stated that metal theft continues to be a significant statewide problem and it requires a statewide approach to deal with it. The bill would establish a regulatory framework with enhanced penalties; it would not limit the power of a city or county to adopt ordinances or resolutions that contain provisions that are more restrictive than the state law or provisions which address local issues. He stated that the key to any regulatory framework is the enforcement mechanism. Attached to Mr. Damron's testimony are amendments suggested by Advantage Metal (Attachment 2).

Ed Klumpp testified in support of **HB 2312** (Attachment 3). He stated there are gaps in current law. If convicted of a violation, the offender is held accountable for the value they receive for the scrap metal. This does not cover the costs attributable to the damage caused to property when the scrap metal is stolen. Undocumented cash payments for scrap metal make it difficult to develop leads and evidence in metal thefts.

Victor Elazegui, Jr. testified in support of **HB 2312** (Attachment 4). He stated that metal thieves cause extensive and costly damage to property during the theft. Thieves often compromise the safety of equipment putting employees at risk of harm.

Kyle Smith testified in support of **HB 2312** (Attachment 5). He stated that as long as large profits could be made without substantial risk, the problem will continue.

Ron Miller testified in support of **HB 2312** (Attachment 6). He stated some kind of regulation is necessary and that scrap metal dealers "have to know" the metal has been stolen.

Written testimony in support of HB 2312 was submitted by: Kent Cornish, Kansas Association of Broadcasters (Attachment 7); Chris Carroll, AT&T (Attachment 8); Patrick Vogelsberg,

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 14, 2011, in Room 548-S of the Capitol.

Kansas County and District Attorneys Association ([Attachment 9](#)); and Charlie Sedlock, Hamm, Inc. ([Attachment 10](#)).

Raynard Brown testified in opposition to **HB 2312** ([Attachment 11](#)). He stated that the current Kansas law is sufficient to address any problem and licensing of metal dealers will not reduce metal theft. The problem could be reduced with a proactive and cooperative approach from all interested parties. The bill is over-reaching and unnecessary, but with some modification of the language he could support some of the concepts in the bill.

Bud Burke testified in opposition to **HB 2312** ([Attachment 12](#)). He stated that the bill would be a deterrent to future investment in Kansas. He would support some of the provisions of the bill with some modifications.

Written testimony in opposition to **HB 2312** was submitted by John Fauvergue, CMC Recycling, Independence, KS ([Attachment 13](#)); and Jorge L Conforme, Government Affairs, LKQ Corporation ([Attachment 14](#)).

Senator Vratil asked, "What is an acceptable length of term for a license?"

Bud Burke replied, "Ten years."

Mr. Damron stated that he would not oppose a ten-year term.

Senator Vratil asked, "Why does licensing work in Wichita, but not in Topeka?"

Mr. Damron stated that licensing works in Wichita because most of the scrap dealers are located within the Wichita city limits, most of the Topeka-area scrap dealers are located outside the Topeka city limits. Statewide licensure would provide consistency.

Senator Kelly asked, "What criteria is used in renewal of licenses in Wichita and Kansas City?"

Ed Klumpp responded, "The criteria is similar to the criteria stated in **HB 2312**."

Senator Schodorf asked, "What is happening in other states?"

Ed Klumpp stated, "He does not know for sure, but believes there are issues in the border areas of the states of Missouri and Oklahoma. He added that Arkansas has the most comprehensive scrap metal laws."

Senator King asked, "Would the language in subsection (g) (2) of K.S.A. 50-6,109 allow for cash payments?"

Mr. Damron responded, "Yes."

Senator King asked, "If a license is revoked, is it site specific or for the entire system of facilities?"

Mr. Damron responded, "It is site-specific."

Senator Umbarger asked, "Is there a way to address the issues other than by licensure?"

Mr. Brown responded, "Require better documentation of the transaction, and capture the transaction by photograph or video recording."

The Chairman encouraged the interested parties to get together, resolve the differences and return to the committee with a bill that all the parties could support.

The Chairman closed the hearings on **HB 2312**.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for March 15, 2011.