

# 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

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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



**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.

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.]

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