

January 7, 1982

LB 413

Senator Vickers. We are speaking on the motion to advance the bill.

SENATOR VICKERS: Mr. President and members, I wonder if Senator Chambers would respond to a question, please.

SENATOR CHAMBERS: Yes.

SENATOR VICKERS: Senator Chambers, because of your legal knowledge and the fact that I have lack of legal knowledge, could you explain to me the difference between prima facie evidence and competent evidence, which is the change that you are making as I understand it on radar?

SENATOR CHAMBERS: Let me instead of trying to give a definition, try to tell how it operates. Under the present law there are no standards related to testing or anything else, whether the unit is good, whether the officer is trained, or whatever. So all that would have to be done is to indicate that you have a radio microwave device mechanically designed to measure speed. The officer used such a device and measured the speed. The speed measured was in excess of the speed limit so that becomes the evidence. And if you don't overcome all of that, you have lost. The way the bill would do now is to set certain foundational requirements saying that this is not going to be at the level of almost an irrebuttable presumption....let me change that, an accusation that is very difficult to be overcome. Before you can really have this kind of evidence offered to be used against you, the officer is going to have to establish the things that I have mentioned. It will take, in other words, more than merely saying that I had a device, I got this reading, this is what the reading was. Before that can be done, you have got to establish these other matters.

SENATOR VICKERS: Would it be fair to say then, Senator Chambers, that if your bill passes, then it was only competent evidence even though the testing had been done and so forth with the radar equipment, that still there had to be other evidence other than the evidence of the radar equipment that an individual was speeding? Is that true?

SENATOR CHAMBERS: Again...I am not sure if I understand your question, what you are asking me so let me tell you what would happen.

SENATOR VICKERS: Well, the radar itself....

SENATOR CHAMBERS: If the officer can show he was properly trained, show that the equipment was in proper working order