

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I think that this is an important public policy question, relates to some public policy questions we've decided on other issues and I hope you will give it a bit of attention. LB 395 as it appears in the gold copy provides, among other things, that with regard to the use of portable scales as opposed to the permanent scales that whoever is weighed on those portable scales shall be advised by the officer operating the portable scale that she or he has the right to demand an immediate reweighing at the nearest permanent scales. Okay? So the bill gives to the citizen a new right, a right to know that they can have an immediate reweighing at the permanent scales. What my amendment says is this, and I'll read it to you. "The failure of the officer to give notice to such owner or driver of the right to demand an immediate reweighing may not be used by such owner or driver as a defense in any action." Basically, I think that what has happened in any number of cases over the last couple of decades with regard to judiciary actions and court actions, the criminal law system has come into disrepute for a number of reasons, but one of the reasons is that criminals get off because of technicalities. I think the search and seizure law, for example, is one area where time after time people who otherwise would have been convicted on the evidence had the evidence thrown out and, essentially, as we all know some criminals are going around free today because of certain rights that are in the Constitution and which should be protected. However, there are other rights that are statutory in nature and not constitutional in nature and it may be well to extend those kind of rights to people, but I think that in many instances we should be careful about further alienating the public by letting people who otherwise would have been convicted off the hook because of the failure to give notice of some right or some opportunity. So what this amendment says is that the officer has an obligation to notify the citizen of that right and if he doesn't do so I suppose that is a neglect of duty and he would be subject to disciplinary action. However, under the amendment the fellow would not be able to go into court and argue that he cannot be convicted and the evidence cannot be admitted because of the fact that he was not notified of his right of a reweighing. The situation you could have is this. Somebody could come down the road, be weighed on a portable scale, be over, grossly over the weights, thousands and thousands of pounds over the weight.