

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Third Session
February 17, 2005**

The Committee on Transportation was called to order at 3:44 p.m., on Thursday, February 17, 2005. Chairman John Ocegüera presided in Room 3143 of the Legislative Building, Carson City, Nevada, and via simultaneous videoconference, in Room 4412 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. John Ocegüera, Chairman
Ms. Genie Ohrenschall, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. John Carpenter
Mr. Jerry Claborn
Ms. Susan Gerhardt
Mr. Pete Goicoechea
Mr. Joseph Hogan
Mr. Mark Manendo
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

Mr. Chad Christensen (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
J. Randall Stephenson, Committee Counsel
Linda Ronnow, Committee Attaché

OTHERS PRESENT:

Mr. Martin, Founder and President of Nevadans for Equal Access,
Las Vegas, Nevada
Daniel Ebihara, Staff Attorney, Clark County Legal Services, Las Vegas,
Nevada
George Brown, Concerned Citizen, Las Vegas, Nevada
Bill Cozad, Nevada Independent Living Council, Las Vegas, Nevada
Diane Resetar, Member, Southern Nevada Association of Polio Survivors
Lois Brown, Concerned Citizen, Las Vegas, Nevada
Robert Desruisseaux, Northern Nevada Center for Independent Living,
Sparks, Nevada
Ed Gobel, CEO, Gobel Lowden Veteran's Center, Las Vegas, Nevada
Linda Westmiers, Southwestern Regional Chaplain, Chapel of Four
Chaplains, Las Vegas, Nevada
Joseph Schwartz, World War II Veteran, Las Vegas, Nevada
Carl Owens, Vice President, Nevada Chapter of Paralyzed Veterans of
America
Ken Rogers, World War II Veteran, Las Vegas, Nevada
Roy Odekirk, Vietnam Veteran, Las Vegas, Nevada
Sharon Gobel, Concerned Citizen, Las Vegas, Nevada
Carol Gobel, Concerned Citizen, Las Vegas, Nevada

Chairman Oceguela:

[Meeting called to order. Roll called.]

We need to do a Committee introduction on BDR 43-274. It is an act relating to highways, authorizing the Nevada Department of Transportation to designate lanes on highways for use of high occupancy vehicles.

- BDR 43-274: Creates a separate civil penalty for persons operating a vehicle carrying fewer than the designated number of persons in a high occupancy vehicle lane. (Assembly Bill 82)

ASSEMBLYWOMAN OHRENSCHALL MOVED FOR COMMITTEE
INTRODUCTION OF BDR 43-274.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (Mr. Christensen was not present for the
vote.)

We will open the hearing on Assembly Bill 24.

Assembly Bill 24: Revises provisions concerning parking spaces designated for the handicapped. (BDR 43-161)

Mr. Martin, Founder and President of Nevadans for Equal Access, Las Vegas, Nevada:

[Introduced himself.] ([Exhibit B](#)) I am the founder and president of Nevadans for Equal Access, a nonprofit organization that is dedicated to ensuring equal access to business and places of public accommodation for individuals with disabilities. In the five years NEA [Nevadans for Equal Access] has existed, we have assisted hospitals, shopping malls, casinos, and even the State of Nevada in making their facilities accessible. We offer our services for free in most cases. I am here to testify in favor of Assembly Bill 24.

In 1993 the Legislature adopted the Americans with Disabilities Act (ADA) in whole. The Act was written to give certain rights to all individuals with disabilities.

In 1999 NRS [*Nevada Revised Statutes*] 484.408 was changed to allow for the parking of vehicles that are equipped with side-lifts for those individuals with disabilities who use mobility devices such as wheelchairs or scooters.

The statute was changed to provide more, not equal, access for individuals in parking lots who use vehicles with side-lifts. Our organization has had several phone calls from individuals who, while legally entitled to park in handicapped spaces, have been ticketed because their vehicles were not equipped with side-lifts. While we have informed these individuals to protest the tickets, it has given them the feeling of segregation. After all they are entitled to the same rights as any other person with a disability.

In the ADA requirements as early as the first edition to the latest edition dated July 23, 2004, it outlines the minimum requirements for parking spaces. The requirement is 1 space out of every 25 be handicapped accessible with 1 out of every 8 handicapped spaces being van accessible. This means that the space must be marked handicapped and include an access space of at least 96 inches or 8 feet.

No where in the ADA does it say that only vans can park in the accessible spaces. I quote from the Americans with Disabilities Act guidelines. "The signage is for information purposes only to alert the public that this space meet the requirements for van accessible parking." There is nowhere in the ADA that gives special treatment to individuals with vehicles equipped with side-lifts, whether it be a van with a folding lift system or a truck or car that uses a similar system.

[Paul Martin, continued.] Regardless if the parking facility has 60 or 1000 spaces, the ADA has set minimum requirements that give all individuals the same rights.

Since signed into law on July 26, 1990, the ADA has stood fast through test after test defending the equal rights of all individuals with disabilities, to ensure that all classes of disabilities are given the same rights and privileges under the Act.

I hope the information I have provided is useful to you, I am in favor of Assembly Bill 24.

Chairman Ocegura:

Are there any questions from the Committee?

Daniel Ebihara, Staff Attorney, Clark County Legal Services, Las Vegas, Nevada:

We work with Nevadans for Equal Access; I would like to add two points. The problem that this original law has created, and what this bill seeks to correct is that the federal regulations established minimum guidelines for the number of handicap spaces that a business has to provide to its customer. By designating one spot that otherwise eligible handicap vehicle drivers can use, is actually creating fewer spaces than the amount required under federal law. It is actually forcing people to violate the regulations of the American's with Disabilities Act.

I understand that this has actually created a division among the disability community which I don't believe should. The problem is that there are not enough spaces for those people who need them. The answer should be creating additional spaces for people, in addition to what the ADA would require, which I believe the federal law would permit. I believe that this law, as it is, would actually violate the ADA. I think there is a potential suit and potential liability available.

George Brown, Concerned Citizen, Las Vegas, Nevada:

I am for equal access. The place that we frequent most has more restrictive parking than anyplace that I have ever seen. These spaces are open and nobody is using them. I stand in support of A.B.24.

Bill Cozad, Nevada Independent Living Council, Las Vegas, Nevada:

I lost an arm and a leg in Korea back in 1952. As soon as I was released from the hospital I found places that I couldn't get into. This is more of a handicap to the people that need it than if we had it not at all. This is a bad law and should be rescinded and changed.

Dianne Resetar, Member, Southern Nevada Association of Polio Survivors:

[Introduced herself.] ([Exhibit C](#)) I help run a support group called SNAPS [Southern Nevada Association of Polio Survivors]. When I'm riding in my scooter, I use braces and crutches to help me get around. I need my car door to be able to open because I need room to get my scooter in and out. The president of SNAPS and her husband own a big truck, and she uses a power chair exclusively. The back of the truck is equipped with a lift which lifts the wheelchair out. Recently they were asked to leave a parking space which was marked for side-loading vans only. Although they have this truck and they need the room, they had to leave.

The secretary of SNAPS has a side-loading van but it's not automatic, so she has to pull out long ramps. None of the accessible spaces are big enough for her.

These are some examples of the different equipment that we need, there are many more, and the bottom line is that we all need room.

When I use my scooter I can sometimes park at the back forty and drive on in. When I am using my braces and crutches I need a close handicap parking space. It is maddening to see empty spaces that are close to the door and they are marked for seniors only, for pregnant women only, for vans only, and now we have them for side-loading vans.

I read in yesterday's *Las Vegas Sun* that some of our disabled vets think they should be treated specially and keep the spaces marked for side-loading vans. Vets aren't the only ones that have a disability, we are all survivors. Who can say one disability is worse than the other. We do the best we can, all of us, but we need an equal playing field. It is bad enough to deal with some able-bodied folks that think we are being treated special. We don't need any other disabled group squaring off against the rest of the disabled community. We believe that the ADA is written to treat all persons with disabilities equally, and please treat us equally and vote for this bill.

Lois Brown, Concerned Citizen, Las Vegas, Nevada:

[Introduced herself.] I am in a wheelchair part time. My husband is blind, so it's very difficult for him to help me get things in and out of the car. When I am using my chair—it is a back loading one—but it still takes a lot of space. It's fine to have the spaces designated for a van, but if a van isn't in there then another handicap person should be able to use that space.

Chairman Ocegura:

Anyone in Carson City in favor of the bill?

Robert Desruisseaux, Northern Nevada Center for Independent Living, Sparks, Nevada:

I think the issue here that was being attempted to address during last session when this was enacted and passed, was just a lack of parking. What most parking lots are adhering to are minimum requirements under the ADA [Americans with Disabilities Act]. I think that individuals in opposition of this particular bill should seek issues with the availability of spaces. What they ought to be doing is working with organizations like Nevadans for Equal Access and other advocacy organizations to try to instill, in the public, that these are minimum requirements. This is the absolute least that people can do. These organizations can work together to try to increase the availability of parking through an educational process.

Chairman Ocegura:

Are there any questions from the Committee?

Ed Gobel, CEO, Gobel Lowden Veteran's Center, Las Vegas, Nevada:

[Introduced himself.] I want to thank the Committee for staying around so long. It's difficult for a lot of our people who were too ill to stay, because those of us in side-loading wheelchair lifts cannot get up and walk and go to the bathroom, all those things for us are a lot more difficult. I want to thank the people who in 1999 on this Committee, especially the Vice Chair and Assemblywoman Ohrenschall and most of all Assemblyman Mark Manendo, who has done such great work in helping us. We have organized the opposition in several panels, and people are going to follow up with things that the other person hasn't said. We have been up every session for the last five in dealing with issues of disability. I am proud to be a Nevadan, I am proud to have fought for this country, but I don't like the idea that the federal government controls over 87 percent of our land. I also am proud to say that the state of Nevada, through a lot of the efforts of Assemblyman Manendo, has made sure that we have codified all the things in our state law, so we never have to have a scene like there was in Tennessee, where a person had to crawl up the steps where we had an issue with the 10th amendment Senate Bill 338 of the 70th Legislative Session in 1999 addressed a number of problems. One of the issues is the 8-foot space adjacent to the handicap parking space for vehicles with side-loading wheelchair lifts versus the ones called van accessible spaces. At the Palace Station, they have 91 handicap parking spaces and they only have 5 spaces marked for vehicles with side-load wheelchair lifts, which is even below the ADA standards. We deal with Nevada standards.

[Ed Gobel, continued.] We have community service standards that people violate more than once. Those are the things that are not in the federal ADA standards. There is one van accessible space for every eight handicap spaces. The photographs ([Exhibit D](#)) that we sent up there show that in all the vehicle only or wheelchair only spaces, there is always a compact car or some other vehicle in there that doesn't need the space. This is an issue of access that people were discriminated against.

What can a person in a vehicle side-loading wheelchair lift do? We cannot walk to the back of our vehicle to take out our scooters. We can only use the lift on the side, and if there is not a space available we have to go home. We cannot attend the hearing today because there weren't enough handicapped spaces.

We only want what the law allows. There are more than 12.5 percent of the people who have handicap placards have vehicles with side-loading lifts. We are only asking for what the law allows and what Nevada determines. As to whether this is legal or not, I would rather stand by the opinion of the Legislative Counsel Bureau and ask Ms. Brenda Erdoes. She has determined that this is legal in the past, so hearing people testify that it might be legal or might not be legal, I think, is sort of an insult to all of us.

We believe in the sovereignty of laws in the state of Nevada. I also have a letter here with some comments that I got from [former U.S.] Senator Max Cleland, who gave both of his legs and an arm in service to his country.

Chairman Ocegura:

Do you have a brief? You said that Ms. Erdoes gave an opinion. Do you have a letter, an opinion or a brief to back up what you just said?

Ed Gobel:

I don't have it with me. Mr. Chairman, I believe when this bill was drafted in 1999 we asked those questions; I do not have a formal legal opinion.

We have no other options if there is not a space available; we have to find other places. What is being asked today in this bill? There should be a rather large fiscal note.

If these spaces do not exist then the people with side-loading wheelchair lifts would have to take Paratransit. In given testimony before the Clark County Commission it was said, it cost Clark County \$60 per ride. It is estimated that it would be required for these people with side-loading wheelchair lifts. That would be 300 rides per year at \$60 per ride. That would be \$18,000 per person. If you multiply that simple amount by 6,000 vehicles with side-loading

[Ed Gobel, continued.] wheelchair lifts, permits issued in 2000, I was told it's 14,000 today. You come up with a price tag of \$108 million just to turn these people over to Paratransit. I will give you the opinion, I talked to Max Cleland and wrote down notes while talking to him; this is what I wrote. [Read from prepared testimony.]

Before I address Assembly Bill 24, it's imperative that I first address the love that I have for Nevada, as being the home of both my friend U.S. Senator Harry Reid, and my brother Ed Gobel. As a patriot he has given three limbs and service for my country and spending a great amount of time with many amputees who now reside at Walter Reed Army Hospital, as the first stop on their way home from serving this country in Iraq and Afghanistan. I must give voice to the opposition of passage of A.B. 24. Nevada should be given great praise for its passage of Senate Bill 338 of the 70th Legislative Session in 1999, restoring human dignity and independence for those who have fought for this nation's freedom. Designating a handicap, or as it was van accessible parking spaces with the adjacent 8-foot diagonally marked spaces already in existence for the exclusive use of vehicles with side-loading wheelchair lifts, has brought smiles to the faces of the men and women who are medically unable to afford any other prosthesis. The Nevada Legislators gave breath to this common sense piece of legislation and are held in high esteem by those who have donated the use of their limbs to our great nation. As these parking spaces represent one of eight handicap parking spaces, one of 200 total parking spaces, the passage of this legislation would steal the smiles from those who returned from defending their country and would bring shame to the shining beacon of freedom the great State of Nevada represents. Please understand that I related the text of A.B. 24 to a fellow triple amputee, causing this proud patriot's eyes to well up with tears. There can be no plausible justification for this legislation. Without a vehicle with a side-loading lift space available, a person has no worth, considers themselves without worth, and has to rely on others. If they make this great sacrifice and try to get around and be independent and follow the law, they should be blessed by all those who enjoy the freedom that is provided by these veterans. Thank you, and may God bless all Americans, Max Cleland.

This is very emotional for me, but you have got to understand the human dignity that you are trying to take away. This is just about convenience for some who have alternatives. If they can't find a handicap parking space, they

can find other alternatives to park, we can't. We can't go anywhere; we can't go to the doctor, and we can't even live anymore. You have got to feel that someone thinks you have value. This is just following Nevada law; this is just following common decency. The logic being used today is that if the space is not being used by a person who doesn't have a side-loading wheelchair lift on their van, then a person who doesn't have that restriction should be able to park in it. I hope we are not suggesting that if there is an empty handicap parking space that an able-bodied person should be able to use it if it's vacant. If you take this away, you are not only taking away our dignity, but you are also putting a fiscal note of over \$120 million on the state.

**Linda Westmiers, Southwestern Regional Chaplain, Chapel of Four Chaplains,
Las Vegas, Nevada:**

[Introduced herself.] I have a letter that was sent to Ed [Gobel] from Max Cleland as well. [Read letter from former U.S. Senator Max Cleland.]

Dear Ed, Thank you for your concern and dedication to enriching the lives of people with disabilities. You are to be commended for your stalwart efforts to ensure that the laws protecting some of our most vulnerable citizens are not rolled back. Former Senator, Hubert H. Humphrey, had champions like you in mind when he uttered these immortal words. "It was once said but the moral test of government is how that government treat those who are in the dawn of life, the children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped." With deep appreciation and respect, [signed] Max Cleland.

Senate Bill 338 of the 70th Legislative Session was enacted to meet the specific needs of people requiring that 8-foot space to restore their human dignity and freedom. Most of them were veterans needing that space, and they fought for all of our freedoms. From the testimony that you have heard from others, it seems that there may be other needs that need to be addressed as well, but don't take this one away; we have fought long and hard for this small token of appreciation to our veterans; the small scrap of human dignity that having that 8-foot space affords.

The retail business supported the passage of this bill because they welcomed the business of people in wheelchairs. As people move here to retire these needs will increase, we have more and more veterans coming out of our current conflict in the Middle East who will need this kind of accessibility, and more of these people continue to find Nevada a wonderful place to live in.

Chairman Ocegura:

Are there any witnesses against the bill?

Joseph Schwartz, World War II Veteran:

[Introduced himself.] I am combat wounded paratrooper, 82nd Airborne. I am also the Commander for the Military of the Purple Heart in Southern Nevada. I am a volunteer service officer for that same organization. I work out of the VA [Department of Veterans Affairs] office here. I am part of the 65 percent of veterans who vote in this state. I am hoping that you will take that into consideration, in addition to which, I personally drive a side-loading wheelchair van. I can't walk; I need that space. I am 300 percent service disabled, due to wounds and other issues. If you change this Act [Assembly Bill 24], I will be forced to get tickets; I will be parking sideways, taking up two or three spaces, and I don't want to break the law. The young men that we are getting in here now, who are Iraqi freedom and Afghanistan freedom fighters, are coming here from Walter Reed Hospital and have multiple injuries. Many of them are not going to be able to walk with a prosthesis or use a prosthesis. They are going to be forced to use electric wheelchairs that the government will provide them, and they are going to want to be independent, to go where, how, and when they want. They are going to have to be in a side-loading van in order to get around. If you take that independence away from them, I don't know what will happen. I hope you don't change the law as it presently is.

Chairman Ocegura:

Thank you, sir, for your testimony, and thank you for your service to our country.

Carl Owens, Vice President, Nevada Chapter of Paralyzed Veterans of America, Las Vegas, Nevada:

[Introduced himself.] I am against the bill for the same reasons as the other members are against it. It will take away my independence; I will have to break the law and take up two or three parking spots just so I can get my wheelchair out of my van. I don't want to break the law; I prefer having the space as it allows me the independence to get out and do the things with my family and my friends.

Ken Rogers, World War II Veteran, Las Vegas, Nevada:

[Introduced himself.] I have been in a wheelchair for 32 years. A very important part of my life is independence. Without the side-loading area it makes it very difficult to operate from day to day. I have had many confrontations with the everyday public telling them that they should not be parking in handicap parking spaces. If we could enforce the existing laws it would help, but to take away

part of our independence is really going to hurt us a lot. Please vote against this law.

Roy Odekirk, Vietnam Veteran, Las Vegas, Nevada:

[Introduced himself.] I am a Vietnam veteran and served my country proudly. I too have a side-lift on my van. The number of spaces that we are asking for is minimal to the total number of handicap spaces. We have a one-in-eight chance of getting a parking space, whereas a regular handicap person has a seven-in-eight chance of getting a parking space. Most of the time that 1/8 of a chance is taken away by somebody who is able-bodied.

Shortly after I was first injured, I was attending UNLV [University of Nevada, Las Vegas], getting my bachelors degree, and the parking lot was full. This person had just pulled into a handicap parking spot and he got out of his car to run into the building. I asked him what was his handicap; why are you taking up that handicap spot? His answer was it was not his car. That was his excuse for taking up a handicap parking spot.

I have a heart condition; I am in a manual chair right now, but will soon be in an electric wheelchair. I will park in two spaces, if there is not a side-lift van space available, and run the chance of someone parking close to me and opening their door and damaging my car. There is a need for the side-lift van parking space.

Chairman Ocegura:

Any others against in Las Vegas.

Sharon Gobel, Concerned Citizen, Las Vegas, Nevada:

[Introduced herself.] I am here as an observer. I have seen my Dad park more than two blocks away, which is very tedious in the sun, or sometimes we have to do it in the rain. It is horrible seeing him struggle; I am opposed to the bill because I hate to see my Dad's rights taken away. We have had to take up two parking spaces and have had our van vandalized. I am begging that you don't take away this bill that we have worked hard for, and take the rights of every American that has to have the side-load wheelchair space.

Carol Gobel, Concerned Citizen, Las Vegas, Nevada:

[Introduced herself.] I am the wife of a disabled man who uses a side-loading wheelchair lift. I am also a licensed social worker; I work as a constituent representative for veterans and also Social Security in the congressional offices. Now I work with my husband running the veterans center and museum. I understand what the handicap people are feeling. Two hundred thousand placards are given out every year and of them you get two placards. One goes to the family, so if you have a husband and two kids, then they all can use the

placards. I would love to sometimes use the placards, but I don't because these handicap people really need the placards to access handicap parking.

These handicap spaces have made my husband's life different; it has made him feel like a human being again; it has given him his independence. It's no fun having to ask someone else to take you places. In 1999, you gave my husband and all his veterans their dignity back, don't take that away.

Chairman Ocegüera:

Are there any others in Las Vegas, seeing none, are there any others in Carson City?

It is the Chairman's intent not to take any action on this bill at this time. We are going to do two things: One, I am going to ask the legislative counsel to look into if there has ever been an opinion issued by the Legislative Counsel Bureau on this specific issue since 1999. If that is or is not the case, I am going to ask them to look into the legality of this law as it relates to the Americans with Disabilities Act. We have all of your names on our sign-in sheets. This will possibly be in a work session, and if it is in a work session in the future, we will call all of you so you know. In a work session we normally don't take public comment, but we can make exceptions to that, but if we do a work session on this bill we probably won't take any public comment. We will probably release the findings of the two questions that I just ask and move forward from there. I thank all of you for taking the time to come down.

Are there any questions from the Committee? There being no further business the meeting is adjourned [at 4:40 p.m.].

RESPECTFULLY SUBMITTED

Linda Ronnow
Committee Attaché

APPROVED BY:

Assemblyman John Ocegüera, Chairman

DATE: _____

EXHIBITS

Committee Name: ASSEMBLY TRANSPORTATION

Date: FEB 17, 2005 Time of Meeting: 3:44 p.m.

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