

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY**

**Seventy-third Session
April 21, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 2:34 p.m. on Thursday, April 21, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dennis Nolan, Chair
Senator Joe Heck, Vice Chair
Senator Mark E. Amodei
Senator Maggie Carlton
Senator Steven Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington (Excused)
Senator Michael A. Schneider (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Joe Hardy, Assembly District No. 20
Assemblyman Bob McCleary, Assembly District No. 11

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Joshua Selleck, Intern to Senator Nolan
Sherry Rodriguez, Committee Secretary

OTHERS PRESENT:

Fred Drees, Chief Traffic, Safety, and ITS Engineer, Director's Office, Nevada
Department of Transportation

Michael W. Lawson, Traffic Information Division Chief, Nevada Department of Transportation
Daryl E. Capurro, Nevada Motor Transport Association
Kaitlin Backlund, Nevada Conservation League
John Madole, Associated General Contractors, Nevada Chapter; Nevada Association of Mechanical Contractors
Former Assemblyman Jason Geddes, Assembly District No. 24; University of Nevada, Reno
Cheri L. Edelman, City of Las Vegas
Wayne A. Frediani, Nevada Franchised Auto Dealers Association
Troy Dillard, Administrator, Compliance Enforcement Division, Department of Motor Vehicles
Charles Abbott, Chief and Highway Safety Coordinator, Office of Traffic Safety, Department of Public Safety
Roger Vind, Lieutenant, Nevada Highway Patrol, Department of Public Safety

CHAIR NOLAN:

We will open the hearing on Assembly Bill (A.B.) 82.

ASSEMBLY BILL 82: Makes various changes relating to use of highways.
(BDR 43-274)

FRED DROES (Chief Traffic, Safety, and ITS Engineer, Director's Office, Nevada Department of Transportation):

The Nevada Department of Transportation (NDOT) is proposing this bill. The first part of the bill deals with high-occupancy vehicle (HOV) lanes and imposing a fine of \$250 for violation of the operational rules for using those lanes. The NDOT is quickly approaching the point where we will be implementing these types of traffic devices on our freeways and highways, specifically in the Las Vegas area.

We feel there is a need to have a specific fine for violations of HOV lanes. Currently, one of the fines available would be the violation of a traffic-control device if we sign it for HOV. A violation of that statute carries a substantial fine. The bail schedule in Las Vegas for violation of that offense is \$280 for the first offense, \$350 for the second offense and \$460 for the third offense. It also carries with it four demerit points.

We believe that violation to be a little more severe than what is warranted for a violation of just having less than the requisite number of people in a vehicle in a lane.

VICE CHAIR HECK:

Regarding the \$250 fine you are proposing, are there going to be demerit points associated with that? Is it going to be a moving violation with demerits or just a \$250 fine?

MR. DROES:

It is my understanding that it would still be a moving violation and a misdemeanor. The Department of Motor Vehicles (DMV) would establish the demerit points that would go with that specific violation. It would be our recommendation that it not be in the four-point range. That is not quite appropriate.

MICHAEL W. LAWSON (Traffic Information Division Chief, Nevada Department of Transportation):

I have written testimony that I would like to read to this Committee in support of A.B. 82 ([Exhibit C](#)).

SENATOR CARLTON:

I am trying to figure out the farm tractor and husbandry portion of this bill. When you refer to an interstate highway, which means a portion of the Dwight D. Eisenhower National System of Interstate and Defense Highways, does this include any of the smaller highways in the State, or are we just basically talking about Interstate 15, U.S. 95 Expressway and Interstate 80? It seems to me there are other small highways also.

MR. LAWSON:

Yes, this is intended only for full-control facilities such as those highways you mentioned. The U.S. routes and the rural routes would not be affected by this bill. The exemption would still be allowed.

SENATOR CARLTON:

With regard to the occupancy lanes, can you tell me where in southern Nevada these lanes are going to be?

MR. DROES:

Initially, it will be the U.S. 95 Expressway, essentially from the "spaghetti bowl" to Craig Road. They are also being implemented on the ramp-metering lanes. There is an HOV bypass lane.

SENATOR CARLTON:

These tickets will be issued by whom?

MR. DROES:

Any law-enforcement agency with jurisdictional authority would be able to write those citations.

CHAIR NOLAN:

For the record, so that we do not have opposition on this bill from my colleague, Senator Cegavske, "implements of husbandry" refers to farm equipment.

DARYL E. CAPURRO (Nevada Motor Transport Association):

We have worked with NDOT with respect to the issues set forth in A.B. 82, and we support them wholeheartedly. Section 8 centers around the fact that the federal table that has been provided to us shows the allowable weight on any group of two or more consecutive axles would be calculated in 500-pound increments. Yet, there was an interpretation originally on the part of the highway patrol that the formula should be followed completely. That means you could end up in one-pound increments which would result in a table that would go from here to Reno. However, it has always been the intent of the federal government to do the weight measurements in 500-pound increments and to the nearest foot. If it is less than half a foot, it drops back; if it is more than half a foot, it goes to the next higher foot.

We would support the changes that are embodied in A.B. 82.

KAITLIN BACKLUND (Nevada Conservation League):

We would like to go on record in support of section 3 of the bill, enabling language for car-pool lanes.

Senate Committee on Transportation and Homeland Security
April 21, 2005
Page 5

JOHN MADOLE (Associated General Contractors, Nevada Chapter; Nevada Association of Mechanical Contractors):

The NDOT is going to work with us on some other issues that will help us out. We have withdrawn our amendment so this bill could move forward. We are in support of it.

CHAIR NOLAN:

We have been presented with an amendment proposed by Norman Dianda, Q&D Construction ([Exhibit D](#)) that will be added to the record. Is there any discussion from the Committee?

SENATOR HECK MOVED TO DO PASS A.B. 82.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS WASHINGTON AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

CHAIR NOLAN:

We will close the hearing on A.B. 82 and open the hearing on A.B. 220.

ASSEMBLY BILL 220: Revises provisions relating to alternative fuels.
(BDR 43-159)

ASSEMBLYMAN JOE HARDY (Assembly District No. 20):

We have received a friendly amendment from the City of Las Vegas ([Exhibit E](#)).

FORMER ASSEMBLYMAN JASON GEDDES (Assembly District No. 24; University of Nevada, Reno):

This is a very simple bill. Last Legislative Session, A.B. No. 237 of the 72nd Session had a word in the wrong place; this bill is to correct that. The gut of the bill is changing "the" to "any applicable." The change is necessary, because currently it is unclear to the Division of Environmental Protection to enforce gasoline-emission standards for gas and diesel vehicles. This clarifies it so the diesel-emission standards will apply to diesel vehicles and gasoline-emission standards will apply to gasoline-powered vehicles.

Senate Committee on Transportation and Homeland Security
April 21, 2005
Page 6

CHAIR NOLAN:

Assemblyman Hardy, have you taken a look at the amendment?

ASSEMBLYMAN HARDY:

Yes, I concur with the amendment and the intent.

CHERI L. EDELMAN (City of Las Vegas):

There was an amendment similar to this in S.B. 288 which was in the Committee a week ago. We want to make sure there is no conflicting language between the two bills, and this will clarify that.

Senate Bill 288: Revises provisions regarding alternative fuels. (BDR 43-889)

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 220.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS WASHINGTON AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

* * * * *

CHAIR NOLAN:

We will close the hearing on A.B. 220 and open the hearing on A.B. 416.

ASSEMBLY BILL 416: Revises provisions governing Advisory Board on Automotive Affairs. (BDR 43-1264)

ASSEMBLYMAN BOB MCCLEARY (Assembly District No. 11):

I need to disclose that this bill is related to the automotive industry and I have been in the automotive industry for most of my life.

This bill reactivates the Advisory Board on Automotive Affairs that is already in statute. It changes the responsibility from the Division of Insurance to the DMV, because the regulations and laws the bill proposes will be subject to the DMV.

So, the bill moves the existing Board from the Division of Insurance to the DMV. It also adds one more person to the Board from the general public. The members will change from seven to eight members.

There were some other individuals who wanted to testify, but they are no longer here.

CHAIR NOLAN:

Yes, their testimonies have been received. We have testimony from Mike Harris ([Exhibit F](#)), Mike Rorman ([Exhibit G](#)) and Michael Spears ([Exhibit H](#)). We will show those on record as being in support of A.B. 416.

SENATOR CARLTON:

I have some concerns with regard to an even-numbered group of anything. We have found in the past that when there are an even number of members, votes often end in a tie. Sometimes, people get deadlocked on certain issues. Have you considered possible problems by having an even number of members? Are you interested in possibly going back to seven members and possibly eliminating one representative from the Department? The Board is being staffed by the Department, so staff will be there to help through a lot of issues. One member from the Department is necessary to facilitate effective communication; the Board does not need two members. It would eliminate possible deadlock situations.

ASSEMBLYMAN MCCLEARY:

I do not have a problem with that if this Committee wants to make that change. There was a mistake I would like to address. I do not understand why members of the auto dealerships were removed; that was never my intention. I was on the Board previously, and I do not understand why drafting has removed auto-dealership members. I would like to see that language put back in.

SENATOR CARLTON:

Did the auto dealers come forward and ask to be taken out?

ASSEMBLYMAN MCCLEARY:

No, they did not.

CHAIR NOLAN:

We will look at your recommendation of amending "auto dealership" back into the bill. With respect to section 1, subsection 6, we struck the language:

Not less than 30 days before the adoption by the Commissioner or the Department of any regulation pursuant to subsection 7 or otherwise relating to the operation of body shops or automobile wreckers, the Commissioner or the Director, as appropriate, shall submit the proposed regulation to the Board for its review and comment.

I am trying to see where we might have reinstituted some type of timeline for the Board to conduct business.

I see on or before January 15 of each odd numbered year, a report can be submitted to the Governor concerning the activities with recommendations. Is that what you have substituted for a timeline?

ASSEMBLYMAN MCCLEARY:

I do not know why that language is in there. It was not part of my request. The bill should have never become this complicated. I simply wanted to change it from one place to another.

WAYNE A. FREDIANI (Nevada Franchised Auto Dealers Association):

We are in support of A.B. 416. The retail-automotive industry is not specifically mentioned in the bill, but we would not be opposed to being on this advisory Board. However, I would tell you that approximately 60 percent of our dealerships have body shops, and all of our dealerships have garages. I think the industry would be well represented with the provision that is in this bill with garages and body shops being represented. If it were your desire to add the retail-automotive industry representative to the Board, we would support that.

TROY DILLARD (Administrator, Compliance Enforcement Division, Department of Motor Vehicles):

We would not have a problem dropping one member on this Board if that were the desire of this Committee. I would like to note for the record that we did submit a fiscal note. It did not go to a money committee; I am not sure why. However, the budget that this would come from is a fee-funded budget. The only thing I would caution is that the health of that account is projected to run out in 2010. We will be dealing with that in the next Legislative Session in trying to shore up the revenue sources for that account. However, if we add additional members, there is going to be an additional drain on that account. That would be my only concern.

CHAIR NOLAN:

Is there a fiscal note trailing this bill?

MR. DILLARD:

The fiscal note was submitted in the Assembly, but it did go through the process to come to the Senate without going through a money committee. Because it is a fee fund, I believe it can be a work program and not necessarily need to go through a money committee.

It is very small in nature. Right now it is about \$4,800 to \$5,000 per year to support the per diem activities of the Committee.

CHAIR NOLAN:

Assemblyman McCleary, it would be our intent to process this bill once we get the proposed language on the amendments back from the Legal Division and make sure we are clear of the fiscal issues. We will then schedule this for a work session.

We will close the hearing on A.B. 416 and open the hearing on A.B. 445.

ASSEMBLY BILL 445: Transfers Committee on Testing for Intoxication from Department of Motor Vehicles to Department of Public Safety.
(BDR 43-665)

CHARLES ABBOTT (Chief and Highway Safety Coordinator, Office of Traffic Safety, Department of Public Safety):

The Committee on Testing for Intoxication was established to certify alcohol-testing devices and certify forensic analysis of alcohol. The Testing Committee was originally established in the statute under the DMV and the Department of Public Safety. It was relocated to the Department of Public Safety when the department split into the two departments. However, the wording in the statute for the Testing Committee was never changed, and this bill corrects that language.

CHAIR NOLAN:

Please clarify for me, when a peace officer stops a driver and they suspect that driver to be intoxicated, what process do they then go through to test these individuals?

MR. ABBOTT:

I am not qualified to answer that question.

ROGER VIND (Lieutenant, Nevada Highway Patrol, Department of Public Safety):
There are a series of events that fall under the standardized field-sobriety testing. Officers are trained to visually, as well as through the sense of smell, assess an individual based on Northwest standards of obvious impairment. The officer then moves right into the Nevada Implied Consent Law in requesting evidentiary testing.

CHAIR NOLAN:

After you make an initial determination, do you have them do a field-sobriety test first or would you have them blow into one of the devices first? What is the sequence of events?

LIEUTENANT VIND:

The sequence obviously is to establish the probable cause to stop the vehicle. Usually, it is the driving pattern when dealing with an intoxicated person. Based upon the officer's observation, the officer would have the individual step out of the vehicle for the field-sobriety test. At the conclusion of the field-sobriety test, if there is still a concern, the officer may request a preliminary field-breath test.

The preliminary breath test is a device used in lieu of physical ability to do a field-sobriety test. Upon the conclusion and failure of the field-sobriety test and/or the preliminary breath test, the officer would then place that individual under arrest.

The actual evidentiary test only comes into play based upon post arrest.

CHAIR NOLAN:

What is the time frame that exists from the time that someone last consumed alcohol to the point that it would be detected accurately by one of these readings?

LIEUTENANT VIND:

That varies by manufacturer. The safe assumption is 15 minutes.

CHAIR NOLAN:

Are there any questions from the Committee?

Senate Committee on Transportation and Homeland Security
April 21, 2005
Page 11

CHAIR NOLAN:

If there is no further discussion, I would like to move this bill from Committee.

SENATOR CARLTON MOVED TO DO PASS A.B. 445.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS WASHINGTON, AMODEI AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

* * * * *

CHAIR NOLAN:

The meeting of the Senate Committee on Transportation and Homeland Security is adjourned at 3:14 p.m.

RESPECTFULLY SUBMITTED:

Sherry Rodriguez,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____