

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

**Seventy-third Session
May 19, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 2:15 p.m. on Thursday, May 19, 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 Maurice E. Washington
Senator Mark E. Amodei
Senator Michael A. Schneider
Senator Maggie Carlton
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Assemblyman William C. Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Virginia (Ginny) Lewis, Director, Department of Motor Vehicles
Martha Barnes, Administrator, Central Services and Records Division,
Department of Motor Vehicles
Alfredo Alonso, Jiffy Lube
Keith Sakelhide, Chief Transportation Inspector, Transportation Services
Authority, Department of Business and Industry

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 2

Daryl E. Capurro, Nevada Motor Transport Association
Michael P. Mersch, Senior Deputy Attorney General, Office of the Attorney General
Bryan Gresh, Regional Transportation Commission of Southern Nevada
Niel T. Rohleder, Traffic System Manager, Freeway and Arterial System of Transportation, Regional Transportation Commission of Southern Nevada
Jacob Snow, General Manager, Regional Transportation Commission of Southern Nevada
Jim Bell, Director, Public Works, City of North Las Vegas
Stan Olsen, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
William Bible, Nevada Resort Association

CHAIR NOLAN:

We will open this work session with action on Assembly Bill (A.B.) 505.

ASSEMBLY BILL 505 (1st Reprint): Revises provisions relating to registration of certain motor vehicles and reorganizes Transportation Services Authority. (BDR 43-973)

Assembly Bill 505 was referred to the Senate Committee on Finance for the purpose of reviewing and holding the bill. This bill is going to be a vehicle by which we address some issues with the Transportation Services Authority (TSA). We will need to ask the Committee to rescind the action to rerefer and bring A.B. 505 back to this Committee. The Legal Division has informed us that the best way to deal with the bill in the interest of closing some of those agencies' budgets, is to rescind the action, bring the bill back to this Committee and obtain a waiver. Both Assemblyman Perkins and Senator Raggio have granted the waiver.

SENATOR CARLTON MOVED TO RESCIND PREVIOUS MOTION TO REFER TO THE SENATE COMMITTEE ON FINANCE A.B. 505.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 3

CHAIR NOLAN:

We will continue the work session with A.B. 52.

ASSEMBLY BILL 52 (1st Reprint): Makes various changes concerning drivers' licenses issued to persons under 18 years of age. (BDR 43-972)

PATRICK GUINAN (COMMITTEE POLICY ANALYST):

Assembly Bill 52 is the Assembly's companion bill to Senate Bill S.B. 60. They are both graduated drivers' license measures. I have prepared a summary for the Committee (Exhibit C) and a document titled, "Graduated Driver Licensing Comparison of Current Law and Proposed Changes 2005 Legislative Session" (Exhibit D). This document compares the differences between the two bills. The Committee has also been provided a list of proposed amendments by Senator Nolan (Exhibit E).

SENATE BILL 60 (1st Reprint): Makes various changes concerning drivers' licenses issued to persons under 18 years of age. (BDR 43-9)

CHAIR NOLAN:

I would like to inform the Committee members that I have met with the sponsors of A.B. 52 and S.B. 60 regarding the differences between the two bills. My proposed amendments reflect some compromise language with which we believe the Assembly will concur if they are accepted by this Committee.

SENATOR CARLTON:

I thought the log-book provision had originally been taken out because of some discussions on filling it out and verification of the document. Now I see that the log book is back in the bill. Chair Nolan, could you share the discussion you had with the sponsors with regard to that?

CHAIR NOLAN:

The log-book provision was originally in S.B. 60. It was omitted in A.B. 52. The reason it was omitted by the Assembly was that they felt a log book that was to be provided to the Department of Motor Vehicles (DMV) along with an application for a permanent license could be a mess. There was no formal format to the log book. It would have been somewhat difficult to provide a number of sheets, and who knows what people could have brought in that would have verified or validated the student's driving experiences.

The Assembly felt that was going to be too difficult, not only for parents and students to maintain but, also for the representatives at the DMV to review and validate. The sponsor of the bill and public-safety groups, both of whom have promoted this idea, stated that a log book was a critical aspect to this process and that most graduated drivers' license (GDL) laws which have passed in other states have included documentation of the driving-practice experience.

We spoke with DMV representatives and they stated it would not be an issue to devise a log sheet that could be placed at the counters of all the DMV locations and posted on the Internet so that all the schools of driver training, public or private, could download that particular form to be used as the log book. Parents could use that form and turn it in with their child's application for a permanent driver's license. It addressed the concerns of the Assembly with regard to not having a standardized form of documentation. It also addressed the concerns of the proponents of S.B. 60 on the importance of documenting hours.

SENATOR CARLTON:

Nowhere in A.B. 52 is there mandated training behind the wheel of a car at the high school level. Did the provision to actually teach a child to drive in a car rather than from a book or the Internet not survive?

CHAIR NOLAN:

In A.B. 52, there is a provision which requires the student to have driver's education, if it is provided through the school they are attending.

SENATOR CARLTON:

That is not included in this bill.

CHAIR NOLAN:

No, it is not. Mr. Guinan, would you please go over the other amendments with the Committee?

MR. GUINAN:

I want to make one comment with regard to the log-book requirement. Deputy Director Clay Thomas of the DMV has written a letter for this Committee ([Exhibit F](#)). The letter contains what is currently necessary for minors to obtain a driver's license. Item 2 is a Minor Affidavit and item 4 is the Affidavit for Minor to Be Licensed. The DMV is already doing things that the Committee may consider building into the log book.

I will now go over the rest of the amendments. The first amendment discusses the log book and mentions that it contains an affidavit created by the DMV and is to be signed by the parent or legal guardian attesting that the student has completed 50 hours of supervised driving.

The second portion of the first amendment is related to the log book, but it is separate from the driving experience. The log book will contain this second affidavit that a parent may sign, indicating that their child is allowed to transport up to two passengers under the age of 18 who are not immediate family members.

The second amendment revises section 4, subsection 2 of A.B. 52 to indicate that a police officer shall not issue a citation to a person for violating the passenger-restriction provisions of the section if the person provides evidence satisfactory to the officer that they are carrying passengers within the provisions described above and are doing so with parental approval.

VICE CHAIR HECK:

The second part of the first amendment with regard to a log book and the affidavit to allow a parent to give permission for a new driver to transport passengers under the age of 18 must have been one of those compromises between A.B. 52 and S.B. 60. I have serious concerns with allowing that provision.

Not being part of the Assembly's deliberations, I am not sure why they would allow a newly licensed driver to transport teenagers in a vehicle simply based on the signature of a parent. As I stated, I do have serious concerns with this because research shows this is the second leading cause of accidents involving underage passengers.

CHAIR NOLAN:

I agree with everything you said, Senator Heck. For the members of this Committee, the debate in the Assembly included the members of the urban and rural caucuses. The rural-caucus members were specifically concerned about the transportation needs of families in the rural areas who had limited vehicles or limited assistance in transporting their children to school.

The Chair of the Assembly Committee on Transportation was fairly adamant in stating that his Committee would be distressed if a solution was not found. A

solution was offered through the proposed amendment. This provision was apparently hard-fought in the Assembly. I agree with you. Our options are to accept the amendment as negotiated or not accept the amendment. Should our Committee feel the amendment is not one we want to retain, it could be removed. We would then go to a conference committee and see whether we can negotiate an amendment that would be satisfactory to everyone.

VICE CHAIR HECK:

I appreciate that explanation, but I would like to raise two counterpoints. The first is that this provision does not apply to siblings. The newly licensed driver can still transport siblings regardless of this provision. Who was transporting these kids prior to this 16-year-old getting their license? Obviously, the individual was getting around before that.

I would be willing to have a cooling-off period. I just do not think that someone who gets their license today should be transporting two or more teenage friends in a vehicle tomorrow. You are setting up that person to have an accident.

SENATOR CARLTON:

You can take your own family members with you so you can literally wipe out every child in your family by giving them to your newly licensed teenage driver. We are letting a 16-year-old get behind the wheel of a car and take their younger siblings with them. If they have an accident, it could potentially involve all of someone's children. A parent has to seriously consider that and make sure that their child is a good driver. We are stating that it is their option to let their child pick up someone.

I am not sure how Assemblyman Ocegueda would feel about it but if we are talking about teenagers with other teenagers in the car, make it so the passenger has to be younger than the age of 12. Most 16-year-olds do not talk to 12-year-olds; they do not have a whole lot in common. I do not think there is going to be a lot of discussion going on in that vehicle. The only thing I think they would be arguing about is to what radio station to listen.

If we need to find a compromise position, even though everyone in this room knows that I am probably going to vote against this bill because there is no mandated driver's training in it, such training would solve a lot of these problems. If those are the concerns with having multiple teenagers in a vehicle,

and that usually seems to be when the accidents happen, let us state the allowable passengers who are not siblings must be under the age of 12.

CHAIR NOLAN:

I am sure you have not forgotten what it is like to have little children. They do not just argue over a radio station, they will argue about anything under the sun, and do it loudly.

SENATOR WASHINGTON:

I have pondered these bills quite a bit and thought about my own experience in driving. It is unfortunate that we have accidents, but it is a part of life. The more we sit here and contemplate these bills and try to curtail accidents or micromanage teenagers as they learn to drive, I begin to think the best way to keep teenagers from having accidents is to make them responsible. The best way to do that is through education.

I remember that when I got my driving permit I was forced to go to driver's-education classes. I spent a number of hours there. I learned how to parallel park, make right and left turns, how to delineate distance between vehicles and I learned how to be responsible with a car. My parents took it one step further; my dad put me behind the wheel and taught me how to drive.

I think we have gone a little beyond the aspect of common sense. We need to mandate some type of driver's education in school and allow the parents to use their common sense to teach their children how to drive. No parent wants to lose their child through a car accident.

With that said, we want to make sure that our children are responsible, that they are not gallivanting around, horseplaying or joyriding with their friends. But, let us be realistic, when we receive our license at a young age, it is a privilege and a rite of passage saying we are moving into adulthood. There is some trust and responsibility required for obtaining that driver's license which states you are of an age to drive a vehicle.

I am like most drivers, I watch young drivers as they drive. I think back and remember that I was that age. I was not trying to be mischievous, but there is a certain element of immortality in a young person. They think they are invincible. That is to be understood. Their driving habits do change over time.

I would like to say we are going beyond the limits of allowing responsible parenting; allowing reasonable opportunity for some type of driver's education, whether the DMV implements and regulates it or not, and making sure the parents work with the local school districts to ensure that proper driver's education is being taught.

I am apprehensive of going beyond those limits and trying to micromanage this to say that now a young driver is going to have to have a graduated driver's license. They had a permit, they went through driver's education training, they learned how to drive and their parents took responsibility. When they got their driver's license, they made their rite of passage and took it from there.

Accidents are a part of life. Even though we do not want to see them, we hope we have educated our children enough so that they will be responsible and take the appropriate actions when they drive. That is where I stand on this issue.

CHAIR NOLAN:

I understand what you are saying and I agree with it. It would be nice to believe that all children are receiving the appropriate amount of training and help from their parents. I think the realization, and especially this Session after several Sessions of looking at this bill, is that a lot of kids do get driver's education; it is required. But, the reality is, a lot of these kids, by the time they get that license or learner's permit, are not prepared and end up dead or killing someone else. That is what we are struggling with, and I know you understand that. Let us see if we can come up with a solution on these points; then we will take a motion.

VICE CHAIR HECK:

I would like to address the comments of my colleagues. If I were writing this piece of legislation, a newly licensed driver would not be able to transport their family members. That was the first concession made to the rural caucus, about being able to transport family members. That is where that originated. Originally, the newly licensed driver would not be able to transport anyone.

Senator Washington, fortunately, like yourself, I was blessed and had responsible, common-sense parents who did all the right things in helping me to learn to drive. The unfortunate thing nowadays is that not everyone is as blessed. There needs to be a little more oversight for those who are not as responsible. Do not forget, there has been a big change in the maturation

process between our era and the era now where children tend to mature physically much faster than we did but mentally mature much more slowly, relatively speaking. The common sense that they possess is not necessarily on a par with what we had when we were at that same age.

I still think that it is very important that a new driver have a period where they are undistracted. Do not forget, the person, up until the time they get their driver's license, has always been driving with, theoretically, a responsible adult. They get their license and then they are driving by themselves for the first time with no one in the copilot seat. It should not be another 16- or 17-year-old sitting next to that newly licensed driver.

I would offer a compromise of a period of three months with no other teenagers in the vehicle with them. That would give that person a little more time on the road driving alone without supervision before they start having the distraction of fellow teens.

SENATOR CARLTON:

If I may clarify, a teenager who was a brother or sister could be allowed in the car; this is only for a teenager who was not related.

VICE CHAIR HECK:

I agree with you but, in deference to the rural caucus and the need to transport siblings.

CHAIR NOLAN:

We will accept that provision as a potential amendment. Is there any additional discussion with regard to the amendment of section 4, subsection 2, to indicate that "a police officer shall not issue a citation ..."? That was commensurate with section 10, subsection 1, that the Assembly Committee on Transportation had done regarding a person who is driving under the age of 18 during nighttime hours. It just seemed to make sense to place that in this section as well.

We have a proposed amendment from Senator Heck to provide a three-month period from the time a child receives their license to the time they would be allowed to drive with passengers under the age of 18. Family members would be exempt. After that period of time, they would be allowed to drive with passengers under the age of 18. From that period of time and until they reach the age of 18, they would be allowed to transport up to two passengers with

the approval of their parents as stated on the affidavit in the book or forms with which they are provided.

SENATOR HORSFORD:

I was fine with everything up until the point at which you stated after three months the parent has to approve it. There are emancipated minors, children who are raising themselves; they are going to school, going to work, and they are struggling. I do not know why we need to go to the extent of putting that provision into law.

CHAIR NOLAN:

I think that an emancipated minor would not be subject to that provision.

SENATOR HORSFORD:

I am aware of that, but I also know there are 16-year-olds who are raising themselves. Unfortunately, not all parents are properly raising their children and maybe they should have been required to get a license before they became parents. I know my circumstances when I was 16. I do not know if I would have been able to get my parents to sign that form. When I got my driver's license, I did not use it for anything other than going to school and work.

VICE CHAIR HECK:

I echo Senator Horsford's comments. I am happy with three months' driving with no one but family members. After that, you can have whoever you want in the car. That is a compromise between what the Assembly bill wanted and what was in S.B. 60 which would have been six months of no driving with passengers other than family members.

CHAIR NOLAN:

We will accept that as an amendment. What we have are provisions which are conceptual amendments, including Senator Heck's amendment to allow newly licensed drivers to drive for a period of three months without anyone in the car other than family members. After that period of time, they can drive with anyone they chose.

SENATOR HECK MOVED TO AMEND AND DO PASS A.B. 52 WITH THE AMENDMENTS IN EXHIBIT E WITH EXCEPTION OF PROVISION WITH REGARD TO PARENTAL CONSENT.

SENATOR HORSFORD SECONDED THE MOTION.

SENATOR CARLTON:

I cannot see how this will ever be enforced because a police officer is not allowed to pull anyone over for this; it is a secondary offense. It does not matter who is in the car or how many kids are in the car. I do not think this will ever truly be enforced. The only parents who are going to follow it are those who are responsible and the other parents are simply not going to pay attention.

I understand what you are trying to do and I support that, but I do not think we are going about it the right way. So, you know how I am going to vote.

CHAIR NOLAN:

I appreciate your concerns, Senator Carlton. These same provisions, which have been adopted by other states, have shown a reduction in mortality rates in newly licensed drivers between 15 to 27 percent in those states that have adopted graduated driver's license laws.

You are correct in that perhaps this might just affect those parents who are trying to be best friends with their children and allow them to drive a car a little bit sooner. This gives them some of the backbone that they should have had.

We have a motion to adopt the amendments provided. The motion was made by Senator Heck and seconded by Senator Horsford.

SENATOR WASHINGTON:

Was this for the amendment?

CHAIR NOLAN:

No, this was amend and do pass.

SENATOR WASHINGTON:

I am on the other side then. I thought the vote was for one of the amendments.

THE MOTION FAILED. (SENATORS CARLTON, HORSFORD, SCHNEIDER
AND WASHINGTON VOTED NO.)

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 12

SENATOR CARLTON:

Perhaps we should separate it and vote on each amendment separately?

CHAIR NOLAN:

We are looking at A.B. 52. Let us address amendment 1 which would require the applicant who is 16 or 17 years of age to submit a log book documenting the date and time of each driving experience. The log book is to contain an affidavit created by the DMV and be signed by the parent or legal guardian, attesting to the applicant's completion of the 50 hours of supervised training.

Is there any objection to that particular amendment? Is there any discussion on whether or not a student can maintain a log book, designed by the DMV and signed by the parents?

SENATOR HORSFORD MOVED TO ADOPT AMENDMENT 1 OF [EXHIBIT E](#) TO A.B. 52.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NOLAN:

It sounded as though there was quite a bit of confusion about what we were going to do with the age limit. I think that Senator Heck would like to make a motion with regard to that. Senator Heck, did you want to make the same motion that you made previously?

SENATOR HECK MOVED TO AMEND A.B. 52 TO STATE THAT A NEWLY LICENSED DRIVER IS NOT ALLOWED TO TRANSPORT ANYONE UNDER THE AGE OF 18 FOR THE FIRST THREE MONTHS WITH THE EXCEPTION OF IMMEDIATE FAMILY MEMBERS.

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 13

VICE CHAIR HECK:

If I had my choice, a newly licensed driver would not be allowed to transport anyone, family or not, in a vehicle for the first three months. But, that would never get passed by the rural caucus, so I will give them family members only.

SENATOR AMODEI SECONDED THE MOTION.

SENATOR AMODEI:

I appreciate the fact that you need to move this issue. I will do whatever I need to get this moved out of Committee. Between now and the time this comes up for discussion on the Senate floor, I am going to ask the Legislative Counsel Bureau to prepare a matrix of the other bill, what this bill is doing and its status to see a vote for this bill in lieu of what is going on with the other bill.

Unfortunately, while the issue is a very common-sense one, and the statistics are compelling, I will speak only for myself and my involvement. I, in my participation over three or four Legislative Sessions, have watched what was a straightforward, common-sense issue become a horribly political mess, in terms of how we deal with it.

That is not meant to impugn or offend anyone; that is just my view. I am getting to the point where I am embarrassed. We are still here dealing with this. It should have been done three Legislative Sessions back. No, we are here struggling with the issue of what the Assembly bill does versus the Senate bill. And God help us if we could come out of this Legislative Session with it still a big mess.

So, I will vote to whatever we need to do to keep this alive and moving. But, before this issue comes up on the Senate floor, I am going to ask Mr. Guinan to create a matrix on what it is we are looking at and compare it to what has been done in other states. I do not want my earlier vote to be categorized as anything which does not support the issue in general. It is getting to the point where it is hard to find the issue in general.

With that, I will support anything that the Committee supports to get this out of here and onto the Senate floor.

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 14

CHAIR NOLAN:

Senator Amodei, I think you have vocalized what a lot of us are feeling as well. The final amendment, amendment 2 would just amend section 4, subsection 2 to indicate that a police officer shall not issue a citation to a person for violating the passenger-restriction provisions of this section if the person provides evidence satisfactory to the officer that they are carrying passengers within the provisions described and are doing so with parental approval.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NOLAN:

Finally, we will take the last amendment of [Exhibit E](#), amendment 2 that I have described previously.

SENATOR HECK MOVED TO ADOPT AMENDMENT 2 OF [EXHIBIT E](#) TO [A.B. 52](#).

SENATOR AMODEI SECONDED THE MOTION.

CHAIR NOLAN:

This provision was taken from that section of the bill dealing with the way law-enforcement officers were to use a common-sense approach in dealing with a minor pulled over after curfew hours and applying that same provision to the section which deals with those individuals who are transporting other people in their vehicles. This was more of a way to give law enforcement the ability to use some discretion when they were pulling someone over.

SENATOR HORSFORD:

I think it is germane to the other provision. It addresses the time that is in the bill and what is defined as a scheduled event. Mr. Guinan, would you clarify what is a scheduled event? Also, curfew hours vary by local ordinance for one thing. Secondly, can the person not drive home after 10 p.m. on a Saturday night?

MR. GUINAN:

My understanding of a scheduled event is that it would include work. If a person is coming home and they are wearing a McDonald's uniform, they are presumed to be coming home from a scheduled event. Otherwise, it is up to the discretion of the police officer to decide if that scheduled event, be it either a football game, basketball game, dance, or whatever it might be, was backed by satisfactory evidence to prove that it was a scheduled event and that the person was allowed to be driving.

CHAIR NOLAN:

Is that in the original Senate bill?

MR. GUINAN:

No, that is in A.B. 52 as it currently stands. That language is not part of the amendment that Senator Nolan offered. Senator Nolan's amendment pulled some language out of there and used the phrase, "satisfactory evidence," to allow a police officer some discretion as to whether the affidavit or whatever the officer is handed by the driver is genuine and to indicate they are driving the vehicle with passengers underage, not in violation of the provisions of the law.

I should point out that if the Committee voted to accept Senator Heck's amendment which reads, "that for three months," no one but family will be able to be transported in the vehicle. After the three months, anyone can be transported in the vehicle. So, the language in the second amendment would be that the officer would only need to see the driver's license and determine whether it had been issued three months prior or not. If the driver was driving within that first three-month period, they would be in violation. If the driver was driving after the three-month period, they would be within the law based on Senator Heck's amendment that the Committee just voted to approve.

The second amendment in Senator Nolan's proposal would change to mirror that. This amendment has zero effect on the curfew portion of A.B. 52. As it stands, A.B. 52 will still have this exact language in the curfew section. The scheduled events and things of that sort remain in A.B. 52; none of the amendments proposed today have anything to do with that portion.

SENATOR HORSFORD:

It says that if you are driving after 10 p.m., then the child is committing a secondary offense rather than a primary offense. What is the penalty for that?

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 16

MR. GUINAN:

I cannot answer that question. I will look it up and get back to you.

CHAIR NOLAN:

Senator Horsford, is the answer to that question something of importance to you?

SENATOR HORSFORD:

No, it is not germane at this time.

CHAIR NOLAN:

We have a motion and a second to adopt the language with regard to allowing a police officer to use some discretion when stopping a minor, using the same language that is in section 10 of the bill and applying it to the section with regard to stopping a minor who is transporting other passengers in the vehicle.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

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SENATOR AMODEI MOVED TO AMEND AND DO PASS A.B. 52.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS SCHNEIDER AND CARLTON VOTED NO. SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

Thank you Committee, I realize that was not an easy bill. We will close the work session on A.B. 52 and open the work session on A.B. 239.

ASSEMBLY BILL 239 (1st Reprint): Revises certain provisions relating to drivers' licenses and the control of emissions from engines. (BDR 43-566)

MR. GUINAN:

A summary of A.B. 239 ([Exhibit G](#)) has been provided to the Committee. This bill has four amendments offered. It is my understanding that the first three amendments have been discussed with the proponent of the bill. I do not know for certain if the fourth amendment was discussed or not.

CHAIR NOLAN:

Just to let the Committee know, this particular Assembly bill addresses a broad popular section of statute and was the last bill moving through the Senate that a number of different provisions could have been amended into it. For that reason, some of these amendments may not seem germane to the bill.

MR. GUINAN:

The first amendment ([Exhibit H](#)) was proposed by Assemblyman Joe Hardy, the proponent of the bill. It allows the DMV to print coded medical-alert information on the back of a driver's license at the licensee's request. It requires that any such notification conforms to codes established in the ninth revision of International Classification of Diseases (ICD-9). The DMV has suggested that the wording be revised to read, "... ninth or most current revision," so that there are no problems with future additions.

It exempts DMV personnel and medical practitioners from any liability associated with the printing or nonprinting of such a notification or, for acts taken in good faith in association with such a notification.

It allows the DMV to apply for and accept gifts, grants, or other appropriations to assist them with this notification program.

SENATOR CARLTON MOVED TO ADOPT [EXHIBIT H](#) AMENDMENT TO A.B. 239.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NOLAN:

The second amendment was requested by me and it appears in the mock-up for A.B. 239 ([Exhibit I](#)). It addresses an issue which had come before this Committee earlier in this Legislative Session with regard to a fine which the DMV issues to someone who has allowed their automobile insurance to expire.

I have been requested by members of the public as well as other members of this Committee to try to find a means by which we could address this particular issue. When an individual fails to renew their automobile insurance in a timely manner, the insurance company is required to notify that individual, through at least three mail notifications, of their failure to renew their insurance. In most instances, these are people who are simply not intending to insure a vehicle and drive it uninsured. That is why the fine was initially levied at \$250 for the first offense. Keep in mind that is \$250 for every automobile on that policy. So, for someone with four vehicles on a policy, that individual would receive a \$1,000 fine.

In some instances, these are people who are well-intentioned individuals who are either in the process of renewing their insurance, or shopping for insurance or who happen to be late on a payment. There was one individual who simply did not pay his premium on time; the insurance company turned in the individual to the DMV. Even though they still had a grace period of 30 days, the insurance company still notified the DMV that these people had not reinsured their vehicle. Let me digress, the DMV had also sent out three mail notifications to that individual. The fine was imposed unintentionally and it was very difficult to remedy.

Sometimes when a person has received a notice, they pay the fine and the insurance company, for whatever reason, continues to keep those people on their rolls as someone who is uninsured.

The amendment before you, [Exhibit I](#), would reduce the fine to \$100 for the first occurrence, \$250 for the second occurrence, and a \$500 fine for the third occurrence. The fine would be subject only to the policy and not to each vehicle on that policy.

Additionally, the amendment provides that this provision would not go into effect until 2007, which is beyond this biennial fiscal period for the DMV. That would allow the DMV time to adjust their budget accordingly.

SENATOR CARLTON:

At one time, we had five cars insured with the same insurance company. With that insurance company, you were only allowed to have a maximum of four vehicles on any given policy. Therefore, our fifth car was on a separate policy. We sold one of the cars on the policy that carried four of the vehicles. When that happened, the insurance company thought that we had not reinsured that vehicle so we did get the notice to which you have been referring.

I received the notice and checked with the insurance company. Apparently, within 30 days after a vehicle has not being insured, an insurance company will notify the DMV and the DMV acts on that. So, there is a 30-day period before three notices go out to the vehicle owner, one regular mail and two certified. There is plenty of time to get this straightened out before paying the fine of \$250.

If you get laid off from work for a month and you let your automobile insurance lapse, it is actually cheaper to pay the \$250 than it is to pay your insurance premium for the two months. People have figured out that there is an advantage to doing this. By the time the insurance company and the DMV catch up with them, it is only \$250 rather than the \$500 or \$600 they would have been paying for automobile insurance. I have some serious concerns with regard to lowering the fine to \$100. I believe that would incentivize some people to try to do something like this. It might actually cause more problems than it solves.

CHAIR NOLAN:

I had an individual come to see me on this subject. He had gone through this ordeal with his insurance company and the DMV. The Legislative Police had to escort him out and calm him down. Because of the \$250 penalty he was required to pay, he could not afford to pay his automobile insurance premium. He was a low-wage earner.

In any case, the intent of this bill is to assess a \$100 fee for a first-time lapse in automobile insurance. As you suggested, Senator Carlton, if there was someone who did it accidentally the first time, the \$100 fine is a good reminder to the well-intentioned individual. The second-time fine of \$250 would probably get the attention of someone who was simply making this a game. This provision provides for someone who is intentionally doing this type of thing to get hit with a \$500 fine after the second time of not paying their insurance premiums on time; that should fix the problem.

SENATOR CARLTON:

It seems to me the first fine of \$100 is the first freebie because the second one is the \$250 fine, which we are currently charging. Actually, we are letting people get away with not paying their insurance premiums on time more than simply trying to slow down things.

I know Ms. Lewis can speak to this; there is a lot of time involved between the time this process starts and the time it gets rectified, as far as having the opportunity to resolve it. I have some serious concerns with regard to giving someone basically a freebie on their first offense, when they might actually be abusing the system.

CHAIR NOLAN:

This is just a proposed amendment. I would like to hear what Ms. Lewis has to say, then we can see what the Committee would like to do with the amendment.

VIRGINIA (GINNY) LEWIS (Director, Department of Motor Vehicles):

I understand what you are trying to accomplish. That is why we asked for a delay in the implementation of this bill. The insurance-verification budget and the Department's budget are tied to the revenue collected, as well as money for the Nevada Highway Fund.

We have a responsibility to give this Committee all the information it needs to make an informed decision. The impact, with regard to the loss of revenue beginning in fiscal year (FY) 2008, is significant, thus the spreadsheet ([Exhibit J](#)) that has been provided to this Committee. If it is the decision of this Committee to reduce the fees, then that is your decision.

As long as you are aware that there is a significant reduction, well over \$7 million each FY, to the Nevada Highway Fund. What that means to us is a loss of 22 percent which helps to fund Department budgets. Whatever your preference, I just want you to have all the facts so this Committee can make an informed decision.

Senator Carlton, I cannot give you a time frame but I do know that from the beginning of the process to the end, the DMV feels there is adequate notification and time for individuals to provide the DMV with information about who is their insurance company. The DMV contacts that insurance company to

verify the information and clear the record before taking any action against an individual.

SENATOR CARLTON:

I want to put it on the record and make it clear that when I did this, I did not use my title as Senator. I called as Merritt Carlton; I did not use my name. I received good and timely service without using my title of Senator.

CHAIR NOLAN:

Doing a little bit of math, a \$7 million-plus loss of revenue, divided by \$250 annually means you are saying that there are 31,000 people who are assessed this fine and pay it.

MS. LEWIS:

If you look at the spreadsheet [Exhibit J](#), I have taken FY 2005 and projected out, based on demographics, for FY 2006 and FY 2007. I did not take it to the next biennia only because we have the demographics we are all using. With the \$250 fine, it shows that in FY 2005 there will be almost 49,000 individuals who have a valid lapse of insurance who are paying the \$250 reinstatement fee.

CHAIR NOLAN:

Ms. Lewis, could you give us an indication on how many of those people tend to be repeat offenders? Do you keep track of that type of information?

MS. LEWIS:

Unfortunately, we do not capture that information. That would be something we could build into our program so with a tiered system we could track that information. Obviously, we would have to do that in order to impose the appropriate reinstatement fee.

Currently, I cannot give you that information. I made a large assumption when we did this revenue projection. I think most people who pay the \$250 fine are doing it for the first time, and hopefully, the only time that they have a valid lapse in automobile insurance. Under that assumption, I could be high, but, lacking any additional data to say that X percent is a second or third offense, I cannot break this down any further.

SENATOR CARLTON:

Could you start tracking that information now, even without this bill, for the next couple of years so that perhaps two years from now this Committee could have a discussion about repeat offenders? One would think that with today's technology, something like this could be done.

MS. LEWIS:

Senator Carlton, I never want to speak for the DMV's information-technology staff before talking to them but, I have to agree, I cannot imagine that it would be too difficult for the Department to implement a mechanism to identify this. It would have to be done on the basis of vehicles; that is how we would need to track it.

SENATOR CARLTON:

Would you use the vehicle identification number?

MS. LEWIS:

Correct.

VICE CHAIR HECK:

I am certainly a proponent of increasing penalties for repeat offenders but, I believe, when you drop the first penalty to less than what it is currently, it sends a bad message. Taking that into consideration, along with the loss the DMV is going to sustain, I would be willing to support the escalating penalty if it started at \$250 and went up from there.

CHAIR NOLAN:

That might eventually have the desired effect you want and maybe will influence those people who Senator Carlton is identifying as doing this habitually to save on their insurance.

SENATOR HORSFORD:

I agree with Senator Carlton. We need to have more information before we make any policy change. Repeat offender or not, I do not understand this enough to make the policy decision of imposing these increased penalties. We do not have enough information to do that. I think we should maintain the status quo and get more information from the DMV and address this later. I have yet to hear a compelling reason as to why we are making this policy change.

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 23

SENATOR CARLTON MOVED TO NOT ADOPT [EXHIBIT I](#) AMENDMENT
TO A.B. 239.

CHAIR NOLAN:

I agree with Senator Carlton with regard to the DMV providing additional information. I felt the amendment was worthy of being brought forward to this Committee, but I do agree with my colleagues. We do need to have information with regard to how many people are repeat offenders. Until we have the data that this Committee is requesting, we really do not have a feel for how many individuals are really first-time offenders. We will revisit this issue in two years. We request that the DMV bring that information forward to this Committee in the next Legislative Session.

Mr. Guinan will summarize for this Committee, amendment three proposed by the DMV.

MR. GUINAN:

The third amendment ([Exhibit K](#)) proposed by the DMV would strike the requirement that the DMV send a second insurance verification notice via certified mail if the recipient of a first notice fails to return the form within 20 days. The amendment provides that instead, the DMV will send a registration-suspension notice if the recipient fails to respond. The recipient will have 15 days to respond to that suspension notice.

The first page of [Exhibit K](#) has a justification of purpose provided by the DMV.

SENATOR CARLTON:

Is the first notice also sent certified mail?

MARTHA BARNES (Administrator, Central Services and Records Division,
Department of Motor Vehicles):

Yes, it is.

SENATOR CARLTON:

Are you actually sending a second certified notification?

MS. BARNES:

Yes.

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 24

SENATOR CARLTON:

Is there a notice before any certified mailings?

MS. BARNES:

The first notice the DMV sends out is actually a first-class postcard, which asks for the information about an individual's insurance policy. Once we get that information back, we contact the insurance company for verification. If we do not receive information back, then we send the certified notice.

SENATOR CARLTON:

Is there a dollar amount that you are going to save?

MS. BARNES:

We do not have that information for you.

SENATOR CARLTON:

If you are sending out that many notices and you have to send out a second notice while perhaps only 25 or 30 percent of those people require a second notice, that is a significant amount of money for certified postage, is it not?

MS. BARNES:

We are currently paying \$2.79 for certified mail.

SENATOR HECK MOVED TO ADOPT [EXHIBIT K](#) AMENDMENT TO [A.B. 239](#).

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

MR. GUINAN:

The final amendment ([Exhibit L](#)) has been proposed by Jiffy Lube. This amendment changes the language of the State Department of Conservation and Natural Resources to the Division of Environmental Protection (DEP) throughout the bill.

ALFREDO ALONSO (Jiffy Lube):

The genesis of this arose out of a service that Jiffy Lube provided, the servicing of a fuel-injection system, which came under fire. We amended Assemblyman Hardy's bill; he is aware of what we are trying to do.

The last time we came before this Committee there was some discussion as to how this might affect the counties' state infrastructure bank (SIB). The intent was never to tie this bill to a smog check but, unfortunately, because Jiffy Lube is a smog station, they are related to the bill. Our thought is to simply indicate that the methods of this type of service, if they are approved by the DEP in concert with the U.S. Environmental Protection Agency (EPA), would be allowed. If the methods are not approved, we simply would not be able to do it.

CHAIR NOLAN:

If an establishment which performs smog checks also services fuel-injection systems, this bill would provide for that and put them under the authority of the EPA where that requirement is established anyway, is that correct?

MR. ALONSO:

Certainly, our intent was never to harm the counties' current SIBs. The intent for this is to provide a service for an individual who may not have either the time or money to go to a dealership. This is a very simple method of cleaning the injector systems. It truly is just a service. As the existing *Nevada Administrative Code* indicates, our people would not even be able to put an additive into the gas tank. Our hope is that through some work with the DEP over the next interim, we can get the EPA to approve some of these types of services and perform them at our level. Obviously, for the public, it is a win-win situation.

SENATOR CARLTON:

I believe the original intention for having entities that provide smog checks totally separate from automobile repair facilities was to prevent the appearance of impropriety. How do you answer that criticism because it is possible that will happen?

MR. ALONSO:

We will have to sell that to the DEP and the EPA. We need to create restrictions that would allow the service to be provided. If we did not, we would not be able to do this.

SENATOR CARLTON:

Are we going to abdicate our responsibility and let them decide?

MR. ALONSO:

Not at all. A Jiffy Lube station is divided into two areas. There is the typical service section, and then the smog section. Our intent was to allow these individuals to conduct smog service when they do an oil change or something of that nature, thus saving the consumer money and time and providing a service to the community. Our people have been trained very carefully with regard to service and to not do anything that may affect that smog check. We have no problem with any restrictions. We will have ongoing discussions with the DEP and the EPA with regard to that.

SENATOR CARLTON:

My concern would be that if a constituent had a problem, would they have to go to the DEP to get it resolved or will they be able to come to the State? Who is going to answer their complaints? Some feel that state smog testing should be separate from repair shops that can self-refer for repairs.

MR. ALONSO:

We are not talking about repairs. These shops cannot do repairs. They are purely service-providing entities. What they can and cannot do is specific.

SENATOR CARLTON:

What is the difference between service and repair?

MR. ALONSO:

There is a big difference. In this case, there are essentially two types of services involved. In one, the serviceman is dumping a solution into a gas tank that cleans the injectors. In the other, the serviceman is removing a hose, injecting a solution into the hose and cleaning the injectors. Again, we are not talking about any repairs. That is not the intent. The only intent here is that we would like to go through a process and if we go through the proper channels and prove the service which we wish to provide is not a smog issue, that it is purely a service issue, and the EPA is okay with that, then we can do the service. If they say no, we cannot.

SENATOR CARLTON:

Do the places that will be doing this not provide repair service in any way?

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 27

MR. ALONSO:
They do no repairs.

SENATOR CARLTON MOVED TO ADOPT [EXHIBIT L](#) AMENDMENT TO [A.B. 239](#).

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

CHAIR NOLAN:
Unless there is some objection, we have been asked by the DMV to have the effective date of July 1, 2006, with regard to amendment one, [Exhibit H](#), pertaining to medical notification.

SENATOR HECK MOVED TO AMEND AND DO PASS [A.B. 239](#) WITH AMENDMENTS [EXHIBIT H](#), [EXHIBIT K](#) AND [EXHIBIT L](#).

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

CHAIR NOLAN:
We will close the work session on [A.B. 239](#) and open the work session for [A.B. 240](#).

[ASSEMBLY BILL 240 \(1st Reprint\)](#): Revises provisions governing owners and operators of charter buses which are not fully regulated carriers. (BDR 58-55)

MR. GUINAN:
A summary of [A.B. 240 \(Exhibit M\)](#) has been provided to the Committee. There are two proposed amendments. The first amendment has been proposed by the

Transportation Services Authority (TSA) ([Exhibit N](#)). It revises the language in section 1, subsection 3 to indicate that an owner or operator of a charter bus would have to provide notice to the TSA 30 days in advance of implementing any change in their existing schedule or tariff. The bill currently allows the notice to be submitted within 30 days after such a change.

SENATOR CARLTON:

Would the TSA be able to deny the change to a schedule or tariff? You are going from a post-notification to a prenotification. Is there going to be a denial process built in and, if there is, what would be the procedures for that?

Currently, do you have the opportunity to deny a change when you are notified 30 days after that change?

KEITH SAKELHIDE (Chief Transportation Inspector, Transportation Services Authority, Department of Business and Industry):

Actually, the reason for the notice requirement is not to approve or deny the tariff filing. It is to ensure that the tariff is for a charter-bus operator and not a carrier that is seeking a different type of operating authority such as airport-transfer service, charter-limousine service or other special services which are fully regulated authorities. It is simply to ensure that the tariff filed is for chartered-bus authority.

SENATOR CARLTON:

If you decide that they are not a chartered-bus authority, then can you deny it?

MR. SAKELHIDE:

What we do is contact the petitioner or carrier. We identify what we believe is the problem, and then work with that carrier to remedy the problem. If the carrier or the applicant disagrees with our staff's assessment, they have the right to pursue the matter to the Authority through a hearing.

SENATOR CARLTON:

Will they not be able to implement the change until that becomes resolved? Currently, the owner or operator implements a change then you review and change it afterwards if you feel it is incorrect.

MR. SAKELHIDE:

Actually, that is not true. The proposed amendment is inconsistent with federal law. United States Code (U.S.C.) 49.14501 permits states to require charter-bus operators to file a tariff 30 days in advance. Our amendment is simply to make this proposed statute consistent with federal law.

DARYL E. CAPURRO (Nevada Motor Transport Association):

I would take issue with the fact that the federal law states that it would have to be filed in advance. That is not what 49 U.S. Code 14501 states. Under subsection B of that chapter, it states: "The implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required."

It does not say before or after. One of the problems with saying we would have to file it before is that we would need to wait 30 days to implement rate changes that may of necessity be filed and used tomorrow. It read "... not in excess of" I propose that anything less than 30 days would also be acceptable under that federal language. You could change it to 5 days or even 2 days but, 30 days is unnecessarily long, especially if you are going to need to file it before you are allowed to implement those rates. We object to that.

MR. SAKELHIDE:

Currently, we do process any change or request in tariffs on charter buses in less than five days. We would not oppose reducing that 30-day period to 5 days or less.

CHAIR NOLAN:

It appears we are in agreement with regard to the first amendment, [Exhibit N](#), as proposed by the TSA with the one change. In section 1, subsection 3, we will change 30 days to 5 days before implementing any changes.

SENATOR WASHINGTON MOVED TO ADOPT [EXHIBIT N](#) AMENDMENT TO A.B. 240.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

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MR. GUINAN:

The second amendment was proposed by the Nevada Motor Transport Association ([Exhibit O](#)). It makes several changes to the bill. First, it revises section 1, subsection 1, to indicate that charter buses must comply with safety regulations adopted by the Department of Public Safety instead of those adopted by the TSA.

Secondly, it deletes the word "satisfactory" from section 1, subsection 2 in regard to evidence of liability insurance submitted by a carrier.

Third, in section 1, subsection 2, the amendment replaces the word "Authority" with "Department of Motor Vehicles."

Fourth, in section 1, subsection 3, add the phrase, "Such schedule or tariff is not subject to review by the Authority." This is in regard to changes in a schedule or tariff of which the Authority must be notified.

The fifth change that is requested adds a new section to the bill revising *Nevada Revised Statutes* (NRS) 706.072 to indicate that the term "fully regulated carrier" does not include any person who owns or operates an intrastate charter-bus service.

The final change proposed in this amendment [Exhibit O](#) pertains to section 4, subsection 1. It deletes the word "satisfactory" in regard to the requirement that a carrier provide evidence to the TSA of liability insurance or other surety as required by this measure.

MR. CAPURRO:

I would like to indicate one change in the language with regard to item 4 of [Exhibit O](#), "Such schedule or tariffs are not subject to review by the Authority" should read, "Such schedule or tariffs are not subject to hearing by the Authority." If you are going to give them five days to look at the tariff change for chartered transportation, then they are going to be reviewing it.

We would suggest that you change "review" to "hearing." Essentially, they cannot change the rate.

There is another provision in NRS 706.323 which essentially states that a carrier can make a rate increase or decrease, up to 10 percent, annually, without an approval by the Authority. That is already in the law. Anything up to 10 percent, under that existing language, would not be subject to Authority approval.

Going back to the amendments we are proposing. As we indicated on line 6 of section 1, the safety regulations are adopted by the Department of Public Safety through the Nevada Highway Patrol (NHP). That is with respect to Federal Motor Carrier Safety Administration rules and regulations which, because we accept federal funds, we must follow. Those regulations are adopted by the NHP and apply to all vehicles, whether they are regulated or not. Those regulations are also what are used with respect to roadside-inspection programs which are carried out by the NHP.

That includes the fact that Nevada has adopted what are known as the North American Standard Inspection levels. They are levels one, two, three, four and five. You must be certified with respect to those North American Standard Inspection levels before you can carry on a level one, two, three, four or five inspection procedure. Those are carried on at roadside-inspection sites and all vehicles, this includes interstate vehicles, are subject to that inspection as are all fully regulated carriers and others in this State.

CHAIR NOLAN:

All public carriers are subject to a roadside inspection. I cannot remember the last time I saw a roadside-inspection station open. How often are they actually doing these inspections? I am assuming that, at least in this State, it is very seldom or only on an occasional basis that they do these roadside inspections.

MR. CAPURRO:

Actually, they are subject to having to provide the information about how many inspection sites that they have administered during the year to the Federal Motor Carrier Safety Administration because we are accepting funds for that purpose. I think you will find that those inspections are being conducted more than you may be aware of but, you would need to talk to the NHP with respect to that.

They have those roadside-inspection sites spread throughout the State. They do periodic inspections in various locations.

MICHAEL P. MERSCH (Senior Deputy Attorney General, Office of the Attorney General):

The general concern is that the handful of inspections done by the NHP, as you have alluded to, do not rise to the level of compliance or the audit functions the TSA has done which has insured 100-percent compliance in terms of annual inspections. The other aspect to this is the inspections done at various checkpoints and random stops are done only with respect to vehicles. That, of course, is only one element of safety.

The reference in here about complying with the regulations of the Authority concerning safety also encompasses the drivers in making sure the drivers are safe and making sure they are drug-tested and making sure they are properly trained and maintaining what is called driver-qualification files pursuant to the federal law.

There are a wide variety of functions the TSA performs that are not performed by the NHP as is properly noted in here. I think it is in the best interest of the State to continue to comply with and have the TSA function in that role.

MR. CAPURRO:

It is a duplication of effort with respect to what was just told to you because the necessary form that is used, the motor-vehicle inspection report, is a federal form that Nevada adopted. That is the inspection report which is filled out by the carrier's mechanics and must be kept in their file and a copy in the cab of the truck for inspection. When they say they do a 100-percent inspection, that is absolutely wrong. They do not do any physical inspections.

Because you require every carrier to send in a motor-vehicle inspection report, that does not do anything for safety, it simply gives them another piece of paper that they can check to see if the I's are dotted and the T's are crossed. That is the same information which is required to be kept on file and available for inspection by the NHP at any time during business hours.

CHAIR NOLAN:

The providers complete self-inspections as required by federal law and do so on an adopted, federally approved form. The only difference in what you are

proposing concerns providing those documents to the TSA who now reviews those forms. Although they are not personally doing the inspections on the vehicles, someone is acting as a gatekeeper, making sure the inspections are being done.

As I understand it, with the amendment that you have you would continue to do those inspections, file the inspection reports and the carrier would keep those reports on premise but there would be no regularly scheduled or authorized inspection of those documents unless there was some problem.

If we enacted the amendment, who would do the inspection, because it would remove you from the jurisdiction of the TSA?

MR. CAPURRO:

The simple fact of the matter is that those records must be kept available and are inspected whenever the NHP does a compliance review. They are required to do a certain number of those compliance reviews, by federal law, each year to comply with their funding.

CHAIR NOLAN:

Are the compliance reviews required of each carrier or does the NHP require a certain number to be completed?

MR. CAPURRO:

All carriers are subject to the Federal Motor Carrier Safety Rules which have also been adopted by the NHP. That applies to all carriers.

CHAIR NOLAN:

So they are all subject to inspection, but not all have to be inspected, is that correct?

MR. CAPURRO:

A certain percentage must to be inspected annually in order for us to maintain our federal funding. The NHP is the only agency that has certified inspectors under the North American Standard Inspection levels. What our concern is, and what has happened in the past is, the TSA has suggested a different inspection procedure than what is required under federal rules and regulations. They simply cannot adopt North American Standard Inspection levels because they are not certified to carry out those standards; that is our contention.

SENATOR CARLTON:

With the prospect of the meeting next Tuesday and the discussion of the TSA possibly moving, I am uncomfortable in dealing with these amendments right now. We do not know where we are going and what we are doing. I would like more time to have the tutorial that Chair Nolan has just requested to make sure we understand what is happening. I think when we get into next Tuesday's hearing, we will be able to discuss these amendments in much greater depth. After the evaluation of the TSA and the decision as to whether or not we are going to move them to the Public Utilities Commission of Nevada (PUCN), we will be able to get into these issues. I am uncomfortable doing these amendments now.

MR. CAPURRO:

The problem is that the bill to be discussed next Tuesday simply changes the word "Authority" to "Commission" throughout the bill. None of the substantive amendments that we are talking about in this bill will be dealt with unless they are inserted into that particular bill.

SENATOR CARLTON:

Mr. Capurro, a lot of your problems will be solved if we do decide to move the TSA's responsibilities to the PUCN. I am not comfortable doing this at this time.

MR. CAPURRO:

I am not confident that will happen. I think what you are looking at is simply changing who is going to be in charge of the TSA and not any significant changes such as are contained in A.B. 240. If I could be assured that these issues would be taken up when you discuss amendments to A.B. 505, I would certainly be willing to do that. If A.B. 240 dies and this is not discussed in A.B. 505, the provisions we feel are extremely important to change and needed in order to comply with federal law, as this bill does, will fail to make Nevada comply with federal law.

CHAIR NOLAN:

I have an indication, not only from Senator Carlton, but others as well, that there are some questions and apprehensions about the amendment. We do not have any more time to discuss this. If we do not get the questions answered and ferret this out, I do not think the amendments will be given a fair opportunity to pass or fail. I will commit to you that this will be a provision that

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 35

we will discuss in connection with our deliberations next Tuesday with the TSA. We will bring your amendments forward once again at that time.

MR. CAPURRO:

We would be willing to accept that. One last point I would like to make is, barring any change in what is happening today, that I could almost guarantee that the State of Nevada will be sued, as the state of Texas and the state of Louisiana were. In both cases, the states were found to be not in compliance with the federal preemption. That is the important part of this, the section that states, "The state shall not regulate intrastate chartered bus service."

CHAIR NOLAN:

We will ask both the TSA and yourselves to be back before this Committee next Tuesday. We will continue this discussion then.

With that, Committee members, the third amendment would have been mine only if these provisions had passed so it is no longer necessary. The Committee has adopted one amendment to A.B. 240 and no other proposed amendments at this time.

SENATOR HECK MOVED TO AMEND AND DO PASS A.B. 240 WITH AMENDMENT, [EXHIBIT N](#), PREVIOUSLY ADOPTED BY THE COMMITTEE.

SENATOR WASHINGTON SECONDED THE MOTION.

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

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CHAIR NOLAN:

We will close the work session on A.B. 240 and open the work session on A.B. 348.

[ASSEMBLY BILL 348 \(1st Reprint\)](#): Prohibits unauthorized use of device that interferes with traffic-control signal. (BDR 43-38)

MR. GUINAN:

A summary of A.B. 348 ([Exhibit P](#)) has been provided to the Committee. The Committee voted to amend and do pass this measure. The amendment that has been passed but has not been voted for on the Senate floor was to make the use of these traffic-preemption devices illegal for anyone other than emergency responders in this State. The reason the measure has been brought back before this Committee is that there is a proposed amendment from the Regional Transportation Commission of Southern Nevada (RTCSN) ([Exhibit Q](#)). It is intended to allow public-transportation vehicles which currently utilize traffic-signal prioritization devices to continue to do so.

The amendment also contains language forbidding the use of these devices to preempt a traffic signal in any way that would interfere with the traffic-signal preemption devices used by emergency-response vehicles.

CHAIR NOLAN:

We had a great deal of discussion on infrared and opticom devices that emergency vehicles use to change traffic lights in order to proceed through an intersection. The RTCSN has asked that they have a device which acts in a similar fashion to maintain their routing schedules with the public-transportation system.

We want to be given assurance that these types of devices cannot impede or interfere with an emergency-response vehicle.

BRYAN GRESH (Regional Transportation Commission of Southern Nevada):

Permit me to get to the heart of the matter. It is not the system-wide issue of the opticom device that we are talking about, it is simply the Metropolitan Area Express (MAX) system that operates in a specific corridor in North Las Vegas Boulevard where the opticom device is utilized. I have a summarization for the committee ([Exhibit R](#)).

CHAIR NOLAN:

Are those frequencies adjusted in a manual way or in an automatic way so they cannot be interfered with or tampered with?

NIEL T. ROHLER (Traffic System Manager, Freeway and Arterial System of Transportation, Regional Transportation Commission of Southern Nevada):

There are two distinct frequencies, and those are set at the factory. They cannot be set or tampered with by an individual locally.

JACOB SNOW (General Manager, Regional Transportation Commission of Southern Nevada):

This is not a new system; it has operated for more than a decade in a number of cities around the country. There is a difference here because the emergency vehicles have what is called "traffic-signal preemption" whereas a transit vehicle only has what is called "traffic-signal priority."

There is a hierarchy in how these systems are managed. If you have preemption, that means you preempt any and all other signals. This system is not new; it has operated safely and effectively in a number of cities. We would like to be able to continue to have the ability to use that here.

As part of an evaluation that we were required to do by the Federal Transit Administration, we did turn off this system for a couple of weeks a few months ago, just to measure what the impact would be on being able to keep our schedule. We ran into some significant problems with drivers not being able to adhere to the published schedule. We feel this is very important to the proper functioning of the overall efficiency and safety of our traffic-signal network.

JIM BELL (Director, Public Works, City of North Las Vegas):

We are very pleased to have the first operational MAX route in our city. Its place is really preliminary to implementation throughout high-capacity corridors throughout the Las Vegas Valley. We are very interested, as is the RTCSN, in the success of this mode of transportation. We see it as most viable; in fact, it is recognized as one of the most viable transit methods in the nation today, one of the leading ones in the world. To deny the preemption, the priority system that Mr. Snow had mentioned, would really relegate this system to a lesser standard and would be ineffective.

CHAIR NOLAN:

Mr. Olsen, I would like you to go on record on whether or not you have an understanding of this system and if you are comfortable addressing my concerns with regard to a possible failure.

STAN OLSEN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We are aware that there is a different flash rate. From what I understand, our emergency vehicles will override any other system if they are in competition for an intersection. Our system turns a light red. Their system extends the green light if it is already green; it does not turn it green.

SENATOR CARLTON:

Before you take a motion, I remember having some discussions about it being legal to sell these devices in this State but then it will be illegal to use them in this State. I still have some concerns with that.

If I remember correctly, some Web sites state that it is illegal to sell these devices in some states. So, that issue is still out there. I was not sure how the Committee wanted to deal with that.

CHAIR NOLAN:

Interestingly enough, I had someone stop by my office who stated that they were at the Laughlin River Run and there was a vendor there who was selling these devices to motorcyclists.

Perhaps, the Committee would want to proceed with an additional amendment. I believe there was some discussion about the State not being able to, or was prohibited from, making these devices illegal.

SENATOR CARLTON:

If it is legal to buy this device and it is illegal to use it, when someone purchases one of these devices, they do not know that when they use it they are breaking the law. They assume that because they can purchase it, it is okay to put it in their car. I would like to be able to do something to protect people from inadvertently breaking the law and not realizing it.

CHAIR NOLAN:

We have an additional amendment from Senator Carlton to make these devices illegal to sell.

SENATOR CARLTON:

I want to know if the sponsor of the bill would be in agreement with that. I do not want to do anything to this bill that would make him uncomfortable with it.

Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 39

ASSEMBLYMAN WILLIAM C. HORNE (Assembly District No. 34):

I do not have an issue with it. I do not feel the public should have access to these devices. If you want to make it illegal to sell them in this State, I have no issue with that.

CHAIR NOLAN:

Was there a reason this was not proposed? Was this part discussed in the Assembly?

ASSEMBLYMAN HORNE:

It actually was not discussed in the Assembly. It was probably more of an oversight on my part.

CHAIR NOLAN:

We have two amendments before us, the written amendment proposed by the RTC SN, [Exhibit Q](#), and an additional proposed amendment from Senator Carlton to make these devices illegal in this State, except as authorized and legally used by those approved under statute.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 348.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY

CHAIR NOLAN:

We will close the work session on A.B. 348 and open the work session on A.B. 504.

ASSEMBLY BILL 504 (1st Reprint): Exempts owner or operator of motor vehicle that is used for transportation of passengers or property from provisions governing fully regulated carriers under certain circumstances. (BDR 58-1236)

MR. GUINAN:

A summary for A.B. 504 ([Exhibit S](#)) has been provided to the Committee. There are two amendments currently under consideration. The first amendment was

proposed by the Nevada Resort Association (NRA) ([Exhibit T](#)). In section 1, subsection 4, it would change the language to provide that a resort can provide transportation only to its customers, guests, officers and directors, key employees and casino hosts.

Section 1, subsection 5, paragraph (b) clarifies that the motor vehicle has to be used in relation to the business of a resort hotel.

The last amendment, proposed by the resort association, requests that the act become effective upon passage and approval.

CHAIR NOLAN:

I had proposed that we place some additional requirements. In my opinion, there should be some safety considerations.

The amendment that I proposed is not favored by the NRA. They feel that it might create more of an onerous situation for them. They have proposed the conceptual amendment ([Exhibit U](#)) which was passed out to this Committee with regard to providing and collecting some information and providing that back to the Senate and the Assembly.

Essentially, the industry would like to pass the amendment and report back to us, possibly through the NRA, about these provisions. My concern was that we would impose these restrictions on those licensees who would be allowed to provide services under this provision. What we were proposing is that we would ensure that the resorts would conduct the same background checks for their employees that are currently required by the TSA. The drivers would be trained to operate the specific type of vehicles they would be using and be required to keep evidence in a file and they would be subject to drug-testing procedures as currently required by the TSA.

I would open this up for discussion. The discussion would be if we approve the amendment, does this Committee feel it is a policy issue that we should impose these types of restrictions on those operators who would now not be operating under the guise of the TSA but operating independently transporting individuals from location to location.

SENATOR CARLTON:

I like the idea of them coming back to us and reporting what they have done, and how the training was completed.

CHAIR NOLAN:

Are there any other opinions on this? I tend to err on the side of caution when it comes to traffic safety and these types of issues. I emphasize what we know to exist rather than leaving it to fate. My feeling is that we should consider what the major carriers or licensees in this area probably already do. I think the information I received for the NRA was that the efforts meet or exceed, in most cases, what I was proposing for an amendment. Again, I am not as concerned with those major carriers as I am with some of the smaller-hotel licensees which would certainly adopt this practice. I would regret it if we put somebody in harm's way.

My second concern is for those trips currently taken under the auspices of the TSA. If there is an accident, there is no formal reporting procedure to the Nevada Gaming Commission. In other words, there could be an accident involving a limousine and unless there was enough press coverage or if it was a horrific accident, there would be no formal notification to the Nevada Gaming Commission.

I leave this particular issue at the mercy of this Committee. My intention would be that we should err on the side of safety and adopt the second amendment.

Is there any objection to the initial amendment as proposed by the NRA? Seeing none, with regard to the second amendment which was mine, would the Committee be willing to adopt that amendment?

SENATOR SCHNEIDER:

How does the NRA feel about it?

WILLIAM BIBLE (Nevada Resort Association):

We have a common concern, and that is the safety of our guests. Most of the large resorts now do practice what you have essentially indicated in the first section of your proposed amendment. They do those types of background investigations. I am not sure that is a prevailing practice across the industry as you have indicated.

On the second proposed amendment, you are going to make the State Gaming Control Board the agency of primary jurisdiction and they would need to investigate these violations, which are traffic citations in nature. You are going to put at risk a property's gaming license. In your oral testimony, you were describing some sort of reporting procedure so that if there are violations, the State Gaming Control Board would be notified.

The Board is not, to my knowledge, an agency of primary jurisdiction for any violations of the code, other than gaming. There is a general regulation that all licensees are expected to fully comply with all federal, state, and local statutory requirements.

You have made this so that now you have the State Gaming Control Board being the primary agency of jurisdiction for traffic-type violations. You are trading for a point-to-point transportation service by putting your license at risk for citations and things that are not typically involved with gaming.

We had suggested as an alternative that we study this, collect information during the interim period and provide it to this Committee. You will then have the factual information available to do further statutory amendments if you feel it necessary.

The additional concern I expressed was that you may have some licensees who chose to comply with the point-to-point restrictions and become a free shuttle. They would be subject to none of these requirements.

CHAIR NOLAN:

For the record, your comments give me a sense of comfort. There could be a bad actor who grabs the busboy or the bellhop and tells them to take the limousine, go to the airport and pick up an individual and bring them back. In this case, the person has never driven a stretch limousine before.

MR. BIBLE:

The companies that are members of the NRA are very conscious of their risk-management responsibilities and they do not want to expose themselves to any liability. But also, from a customer-relations standpoint, you are going to want to send someone who is very sophisticated, knows how to operate the vehicle and knows how to get from point A to point B. You can imagine the embarrassment if a major resort dispatched a driver who was a busboy to the

airport and he could not find the airport and a premium customer was left waiting.

MR. MERSCH:

Relative to the general nature of the bill, the TSA is neutral. We would echo 100 percent your concerns for safety. I would note that what I have heard a lot of, throughout this process, is of course the casino is going to keep a lot of these records so it would seem to me to be an innocuous requirement to set forth.

The other consideration raised earlier during the testimony on A.B. 240 is that there are two parts to safety when you are talking about the traveling public. There is the training of the drivers, but there is also the safety of the vehicles. If the directive was to keep records on the training of the drivers, then perhaps there should also be records on the safety of the vehicles and what kind of maintenance is done on them as well. Those would be my only additional comments.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS A.B. 504 WITH AMENDMENTS EXHIBIT T AND EXHIBIT U PROPOSED BY THE NEVADA RESORT ASSOCIATION.

SENATOR CARLTON SECONDED THE MOTION.

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

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Senate Committee on Transportation and Homeland Security
May 19, 2005
Page 44

CHAIR NOLAN:

The work session of the Senate Committee on Transportation and Homeland Security is adjourned at 4:42 p.m.

RESPECTFULLY SUBMITTED:

Sherry Rodriguez,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____