

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Fourth Session
May 9, 2007**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:34 p.m., on Wednesday, May 9, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jerry D. Claborn, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman David Bobzien
Assemblyman John C. Carpenter
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Ruben Kihuen
Assemblyman John W. Marvel
Assemblyman James Ohrenschall
Assemblywoman Debbie Smith

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Christina van Fosson, Committee Secretary



OTHERS PRESENT:

Steve Ricker, representing Animal Welfare and Protection Advocate,
Nevada Humane Society
Bryan Davis, Executive Director, Pet Network Animal Friends
Alicia Peters, Intern for Senator Dina Titus
Frank Adams, Executive Director, Nevada Sheriffs and Chiefs Association
John P. Sande III, representing the Nevada Franchised Auto Dealers
Association and the Western States Petroleum
Alfredo Alonso, representing the Alliance of Automobile Manufacturers
Doug Busselman, Executive Vice President, Nevada Farm Bureau
Peter Krueger, representing the Nevada Petroleum Marketers and
Convenience Store Association
Vernon Miller, Senior Petroleum Chemist, State Department of Agriculture

Chairman Claborn:

The meeting is called to order. We will start with Senate Bill 329 (1st Reprint).

Senate Bill 329 (1st Reprint): Prohibits a person from allowing a cat or dog to remain unattended in a motor vehicle under certain circumstances. (BDR 50-950)

Steve Ricker, representing Animal Welfare and Protection Advocate, Nevada Humane Society:

This bill deals with domestic animals left unattended in hot cars or extremely cold conditions. [Read from handout ([Exhibit C](#)).]

Assemblyman Goicoechea:

I do not see anything about working dogs in the bill. Ranchers, hunters, and all the first responders are exempt from this legislation. I notice the hunting dogs.

Steve Ricker:

If you look at the top page of your bill there is reference to a statute with an exemption for ranchers and hunters. That is the intent of the bill. Perhaps it was not properly drafted. It intends to provide an exemption for ranchers, hunters, and first responders.

Assemblyman Goicoechea:

I do not see that portion in here. Perhaps our legal counsel could clarify this.

Randy Stephenson, Committee Counsel:

Please see the bottom of page 3, Section 5, subsection 6, or lines 35 to 37. It states that the provisions of "Section 2 of this act do not prohibit or interfere

with animal husbandry, including the raising, handling, feeding, housing, and transporting of livestock or farm animals." That is generally the ranching exception for the cruelty to animals provision. That is why we did not write in specific provisions in the new language of this bill. There is a general exemption that has been in effect for numerous years.

Assemblyman Goicoechea:

Thank you. I am uncomfortable with the way it is worded.

Steve Ricker:

The intent of the bill is to exempt those interests.

Chairman Claborn:

I thought that we were protecting dogs and cats. I notice that we are also including reptiles.

Steve Ricker:

The last time I read the bill draft we had not included anything other than domestic animals such as dogs and cats. Animal shelters and animal control facilities in Clark County and throughout the State are having big problems with people leaving their dogs and cats in the back of their cars when they go inside a building. People are hesitant to break into the cars or call a locksmith because of liability issues. As cars get more sophisticated sometimes they have to break a window to remove the animal. Consequently, many animals are dying because they are not able to be removed from the cars.

Chairman Claborn:

On page 3, Section 5, line 26, the bill addresses interfering with the right to kill all animals. Does that mean that we will not be permitted to hunt quail anymore?

Steve Ricker:

It does not apply to that. Please see Section 5.

Assemblyman Carpenter:

What happens in these situations when a person has to break a car window to assist an animal? Would that person be breaking the law? Or would they be considered a Good Samaritan?

Steve Ricker:

That is open to the interpretation of current law. When we drafted this bill Senator Townsend thought that we should limit it to sheriffs, search and rescue teams, and law enforcement. Typically pets in distress are reported at shopping

center parking lots. In those instances, a witness reports the incident to shopping center authorities. Those authorities attempt to page the owner of the vehicle in the store. If that does not work, a locksmith is called. If there is insufficient time, they attempt to open the door in a way that does minimal damage to the vehicle. Cars are becoming more sophisticated and can no longer be opened with coat hangers through the window. Individuals who attempt to save a pet from a locked vehicle do not have any protection from liability suits.

Chairman Claborn:

Does that satisfy your concerns Assemblyman Carpenter?

Assemblyman Carpenter:

No, but I can do nothing about it.

Chairman Claborn:

Is that the reason some of this is already in the *Nevada Revised Statutes* (NRS)? Are the areas that have been modified highlighted? When they drafted the bill did they leave this in statute?

Randy Stephenson:

Yes. We have numerous existing provisions regarding cruelty to animals. There are also numerous existing exemptions to those provisions which have been in statute for several years. We took the new language that was proposed by the proponents of the bill and worked it into the existing provisions which address cruelty to animals. That is in Chapter 574 of NRS.

Chairman Claborn:

I am concerned about the highlighted portion.

Randy Stephenson:

That is the new language. It sets forth the specific authority for police officers and other individuals to use reasonable force to break into a hot car to remove an animal.

Chairman Claborn:

It seems that there should be a different statute than what is already in place.

Randy Stephenson:

That is a good point. The new provisions of Section 2 apply only to a cat or a dog. I do not think it would be necessary for an iguana or anything.

Assemblyman Goicoechea:

It gets very cold in parts of northern Nevada. I would like to clarify that we are specifically referring to parked vehicles.

Steve Ricker:

That is correct.

Assemblyman Carpenter:

Why are the dogs that are transported to use for hunting game animals exempted? Can you explain that?

Steve Ricker:

The Senate decided that they should be exempt.

Assemblyman Carpenter:

Which game animals are we discussing?

Steve Ricker:

I do not understand the question.

Assemblyman Carpenter:

It says "During the season for hunting that species of game mammal;" Which ones are we discussing?

Steve Ricker:

That section refers to any mammal that is in season during that time.

Assemblyman Carpenter:

So it does not apply to hunting dogs.

Steve Ricker:

No, this legislation does not. If that person's hunting license is for doves, they are exempt from this bill.

Assemblyman Carpenter:

That means that a hunter can pull up to his local bar and stay for two to three hours. Meanwhile, he can keep his dog in the car and come out to a dead dog. Are you saying that this legislation would not apply to that hunter?

Steve Ricker:

Originally we did not allow an exemption for hunters. But the Senate passed the exemption. Their reasoning was that hunters typically view their dogs as an investment as well as a companion. The Senate Committee on Natural

Resources decided that hunters would not put their dogs at risk. We are trying to make people aware that this is going to be a misdemeanor. We also want to educate people about this issue so that it does not occur as often as it does. We also want to provide police and Search and Rescue officers the right to assist animals without getting sued.

Assemblyman Bobzien:

I agree with my colleague from Elko. People who hunt with dogs view their dogs as an investment and as a companion. I wonder why we would exempt them. If we are going to pass this bill, it is an interesting exemption.

Steve Ricker:

I was in favor of not providing them with an exemption. We want to get this bill through both Houses. We would like it to be signed by the Governor. I have been with the Nevada Humane Society for 23 years. I cannot recall ever having a hunter reported to us. During those 23 years we responded to thousands of calls.

Assemblyman Bobzien:

I appreciate that you want to see this legislation passed. But I am concerned about exempting hunters.

Bryan Davis, Executive Director, Pet Network Animal Friends:

Prior to stating my testimony I would like to address your concerns about hunters. I attended the Senate work session where that topic was addressed. We proposed an amendment that would allow hunting dogs to be exempt during the act of hunting. That amendment did not pass. It lost in a vote of six to one. The Senate Committee on Natural Resources was concerned that extra limitations for hunting dogs would create an issue for them. So the amendment was addressed. We do not want hunters to be able to leave their dogs to die. But our amendment did not pass. [Submitted handout ([Exhibit D](#)).]

Assemblyman Bobzien:

I am concerned about the practical implications of the bill. I understand where the amendment came from. But as the hypothetical scenario discussed, a hunter could arrive at his local bar with his hunting license, and his Heeler. He could be exempted from allowing his dog to die in this car. Potential confusion would likely result from the passage of this amended bill.

Chairman Claborn:

I agree with Assemblyman Bobzien. I live in Las Vegas. I hunt quail there. It gets so hot in Las Vegas that it becomes challenging to breath. It does not make sense to leave an animal in the car. I have witnessed people leaving their

animal in their car with the windows down. It would be better to leave them in a kennel. I do not support the exemption for hunters.

Bryan Davis:

I can gladly forward my amendment to the Committee for insertion in the bill.

Chairman Claborn:

The Committee would like to see it.

Assemblyman Goicoechea:

We can all agree that we do not want to see animals suffer. There are individuals who hunt when it is 20 degrees below zero and keep their hounds in the back of their truck while they hunt cougars. It can reasonably be said that those hounds are suffering.

Chairman Claborn:

If you provide the Committee with your amendment we can discuss it at the next work session.

Assemblyman Bobzien:

What do other states do?

Bryan Davis:

I do not believe other states try to appease the hunting community as much as Nevada does. The amendment that we proposed to the Senate was in Section 2, line 37, on page two. It was a very brief section that we can hopefully pass in this Committee.

Steve Ricker:

We used some language from Colorado and California. Those states exempted hunters. Most of these laws are in the Midwest and back east, and they did not exempt the hunters.

Chair Claborn:

They probably do not hunt quail when it is 130 degrees.

Steve Ricker:

It is just that we could not get it out of the Senate Committee without including that exemption.

Chair Claborn:

I am sure we will address that.

Alicia Peters, Intern for Senator Dina Titus:

Senator Titus is stuck in a meeting, so I am before you to let you know that Senator Titus wholeheartedly supports S.B. 329 (R1), and hopes the Committee takes that into consideration.

Chair Claborn:

Somebody might want to ask you a question.

Assemblyman Bobzien:

What about the amendment?

Alicia Peters:

I can take the question, but

Assemblyman Bobzien:

The concern is that there might be some practical issues with how that is enforced. Is the person a hunter or not? Do they have the right species of dog? What you are hearing is that people are supportive of the concept; but this amendment throws in a monkey wrench.

Alicia Peters:

I will make sure she addresses it.

Assemblyman Bobzien:

Thank you.

Assemblyman Carpenter:

It looks to me like a wildlife bill because every dog owner is going to buy a hunting license.

Chair Claborn:

Is there anyone else who would like to speak for S.B. 329 (R1)?

Frank Adams, Executive Director, Nevada Sheriffs and Chiefs Association:

A lot of agencies have a canine patrol. We have Search and Rescue dogs. We are in support of this bill with some amendments. Many bills that you give us have similar types of situations where we have to use our discretion as officers. We agreed with the original amendment to exempt them while they are in the process of hunting.

Chair Claborn:

I agree with you, but we have to address the issue.

Frank Adams:

I do not disagree with you, Mr. Chairman.

Assemblyman Hogan:

Were you present when the Senate made its decision on the amendment?

Frank Adams:

I do not believe I was at the work session. I was at the original submission of the bill.

Assemblyman Hogan:

I am curious to see if we are headed into a deadlock, or if it is something our common sense will recognize.

Chair Claborn:

Is there anyone who is neutral or opposed regarding S.B. 329 (R1)? [There were none.] We will close the hearing on S.B. 329 (R1) and open the hearing on Senate Bill 105 (1st Reprint).

Senate Bill 105 (1st Reprint): Revises provisions governing regulation of motor vehicle fuel. (BDR 51-258)

John P. Sande III, representing the Nevada Franchised Auto Dealers Association and Western States Petroleum:

I have handed out a background on the American Society for Testing and Materials (ASTM) International. [Read from prepared text ([Exhibit E](#)).]

Assemblyman Goicoechea:

What concerns me is putting an artificial line in place and saying fuel cannot cross from here to here.

John P. Sande:

The Coordinating Research Council (CRC) constantly reevaluates automobiles to see what they run on. The purpose of the statute is to ensure that the fuel quality is adequate so that you do not have problems with your vehicle. I know there are problems in southern Nevada, even with ASTM standards, with hot fuel handling issues. If you do not have some standards which can be applied, you will have real problems. This does not apply in Washoe or Clark Counties because the Environmental Protection Agency (EPA) regulates them. The automobile and the oil industries say it is very important to have some standards, and ASTM is the only standard out there.

Assemblyman Goicoechea:

I am getting calls from Lincoln County, and those people are concerned about this boundary. They would be able to get their fuel only from southern Nevada. If you are saying that Clark and Washoe apply separately, why do we need these barriers in place for the rest of Nevada?

John P. Sande:

That was the issue from some of the rural representatives. The ASTM is saying that at certain times of the year if you are selling below the 38th parallel, and you are selling below the standard, that cars will have problems. The research indicates that if you allow an inferior fuel to be sold in those areas, there will be problems. We have ASTM standards for northern Nevada. All the surrounding states do this. Clark County had a Blue Ribbon Commission to study fuel supplies because Nevada gets fuel from California. No more refineries will be built. Bigger refineries can be built in other countries. The recommendation from my client, as well as some others, is that another pipeline should be constructed. The quality of the fuel may still be an issue, but the pipeline comes first. We have addressed the variance procedure if there is a problem with fuel supply, it would be available even though it did not meet ASTM standard.

Chair Claborn:

We have been working on that problem in southern Nevada, trying to establish enough money and right-of-way for another pipeline. We have not succeeded. If we do not do that, we are going to come up short. Would it affect the carburetors as much as it did a couple of years ago? Now we have computers that kick in and help these automobiles get started.

John P. Sande:

They are getting better at that. As a matter of fact, the CRC is doing some more studies and hopefully, they will be able to relax the ASTM standards. You still have the issue of air quality, which is a major issue in Clark County. Washoe is not as big an issue. If we do not have these standards, we will not be able to protect the residents of Nevada.

Chair Claborn:

Do you know the months in which they have to do this? We have to put oxygen in our fuel in Las Vegas for pollution control.

John P. Sande:

In Washoe and Clark Counties, as far as oxygenated fuel is concerned, it is needed in the winter months.

Chair Claborn:

What about the transition that you have to do in Lincoln County? The gas is different three or four months out of the year.

John P. Sande:

Yes, they have different ASTM standards at different times of the year, depending on how hot it is. The oxygenated fuel requirement in Clark and Washoe has to use ethanol. Ethanol cannot be shipped through the pipeline mixed with the gasoline. It has to be added at the rack.

Assemblyman Grady:

The ASTM standards can be different in refineries in southern California, northern California, or Utah. They can all have different standards?

John P. Sande:

Not different standards, but they can produce different fuel based upon where they are shipping it. For example, Utah is not as hot as Nevada, according to a study that checked all the average temperatures in the United States. Utah has one ASTM standard. Northern Nevada has one standard at certain times of the year, southern Nevada has different standards at certain times of the year. What we are talking about is the volatility of gasoline. That is what is at issue with the problems with your car. Scientists spend millions of dollars on studies, and that is how they come up with these standards.

Assemblyman Grady:

On my property in Utah, I find that the higher the elevation, the more power my truck loses. The 38th parallel does not make a lot of sense to me. I could understand if elevation were an issue, but this imaginary line does not make sense.

John P. Sande:

It is the best scientific evidence. They take the temperature at different spots of the county, they look at the research, and update it as newer cars come on the market. It is not in their best interest to have to make different fuel.

Assemblyman Carpenter:

Who sets the standards for Clark and Washoe?

John P. Sande:

It is done by the EPA. It is called the State Implementation Plan (SIP), and complies with the federal government. In southern Nevada it is part of the Department of Health; the environmental group makes proposals to the EPA. In Clark County it is a boutique fuel, which is different than any place else.

Phoenix has their own fuel, and there is the California Air Resources Board (CARB) in southern California which sets fuel specifications. That is for air quality. This is more for car performance.

Assemblyman Carpenter:

Who sets the standard for volatility in southern Nevada?

John P. Sande:

The Department of Agriculture sets the standards for volatility, the ASTM standards.

Assemblyman Carpenter:

Is it the same in northern Nevada?

John P. Sande:

Yes.

Assemblyman Carpenter:

Is the fuel coming into the Las Vegas area going to cost more than the fuel coming into Reno?

John P. Sande:

The prices vary. Reno's prices are higher than Clark County's, but I do not know.

Assemblyman Carpenter:

I am having a hard time understanding. What is going to happen to this guy in Pioche that is upset about this, where is he going to be?

John P. Sande:

This was done about a year ago when they changed the regulation. Before that, they were complying with the ASTM standards. It was not done for the purpose of allowing somebody to make a profit, it was done because of fuel supply and proposed shortages. If you will look at the testimony before the Board of Agriculture, the regulation was changed because there might be a shortage of fuel, and it gave us someplace else to go. That is why we put the variance procedure that would address that issue into the statute.

Assemblyman Carpenter:

If you do not get one of these variances, this fuel has to come from southern California, so you are really cutting down on the supply.

John P. Sande:

If this bill passes, whatever the ASTM standard below the 38th parallel is, the gasoline would have to be supplied to protect the consumer.

Assemblyman Carpenter:

You talk about the consumer, but this guy would have to buy the fuel from Las Vegas, right?

John P. Sande:

I do not know. If the refineries in Salt Lake City have a market, they can supply fuel that meets the ASTM standard below the 38th parallel.

Assemblyman Carpenter:

What about the fuel coming out of Las Vegas? Is it going to work in Elko?

John P. Sande:

It would work in Elko, but there could be a lower ASTM standard in there, so a supply would be sent from someplace else. The ASTM standards above the 38th parallel are not as strict because Elko is not as warm as southern Nevada.

Assemblyman Carpenter:

When were the ASTM standards done away with?

John P. Sande:

The ASTM standard was done away with by the Board of Agriculture when they changed the 38th parallel in 2005.

Assemblyman Carpenter:

I have bought thousands of gallons of gasoline from Las Vegas, and it seems to work fine.

John P. Sande:

It would work fine in northern Nevada to buy fuel in southern Nevada, from the standpoint of hot fuel handling issues because it would not be as volatile.

Assemblyman Carpenter:

You do not think this will have anything to do with price, even if they run out of fuel?

John P. Sande:

If they run out of fuel, they would get a variance like surrounding states have.

Chair Claborn:

As an example, if they were delivering fuel to Ash Springs, and they crossed the 38th parallel to Ely, and they did not have any baffles in their tankers, they would have to turn around and pump all the fuel out in Ash Springs. They would go back to Las Vegas and pick up a different kind of fuel and drive it all the way to Ely. It would be a hardship on the trucking firm.

John P. Sande:

You can bring fuel from southern Nevada up to northern Nevada and it would work. Bringing fuel from northern Nevada to southern Nevada would be more volatile and would cause more problems for the dealers. This is nothing new. We have been doing this for many years, and we have followed ASTM standards in this State. If you do not follow ASTM standards, what are you going to follow? If you do not pass this legislation, how are you going to regulate? Should we eliminate the ASTM standard and say anybody can come in? That is my confusion with anybody that opposes this legislation. We addressed, in this bill, in the Senate, every issue there was about ASTM. You can adopt any standard regardless of scientific facts. You can get the Board of Agriculture, or some other agency to say they are going to make the regulation so strong that people will quit driving so much. Let's make gasoline so expensive that they cannot buy it.

Assemblyman Goicoechea:

Do we need to go to the 38th parallel, or can we go someplace else? Utah's standard applies statewide in Utah. It is wrong to impose these standards by saying that we cannot get northern fuel when Pioche is higher than a lot of places in Nevada. It does not allow the sale of Salt Lake fuel which is cheaper than what you get in southern California. That is the issue we are trying to address.

John P. Sande:

The Desert Research Institute (DRI) looked into this issue. They said that eliminating the 38th parallel could cause problems in southern Nevada.

Assemblyman Goicoechea:

Is there someplace else? Could we go farther south? Clark County is dealing with air pollution as well as volatility.

John P. Sande:

The CRC is looking at studies, and if they say we move it to the 35th or 36th parallel, that is great. If Nevada does not have any standards, and there are problems, it is not the oil companies that will be upset; it will be car dealers in Las Vegas who are adamant.

Assemblyman Hogan:

From the consumer's point of view, it seems that the consumer in Pioche has one quandary, and the consumer in Clark County has a variation of that quandary relating to cost. If the central reason for the difference in the standard is a scientific assessment of the likelihood of poor or better engine performance, could we have a comprehensible explanation before we run the risk of higher gasoline prices because we choked off potentially lower cost? What are the odds of having engine problems?

John P. Sande:

I will get you that information, because I know that is what they do. They figure out what is reasonable under the circumstances. They have been doing this analysis for over 100 years.

Assemblyman Carpenter:

The problem is that they can bring gasoline that does not meet these standards from Salt Lake into Las Vegas? Is that the problem?

John P. Sande:

The problem is that if you do not have standards, you are putting the consumer at risk, and ASTM and CRC have spent the millions of dollars to do the analysis.

Assemblyman Carpenter:

The people that are supplying the gas from California to Las Vegas, are they not meeting those standards?

John P. Sande:

The fuel supply coming from California for southern Nevada is meeting the standards. The Board of Agriculture does evaluations of the fuel that is coming to make the quality as it is supposed to be.

Assemblyman Carpenter:

If the people from southern California are paying attention and are supplying the gas to Las Vegas, there should be no problem, right?

John P. Sande:

There is no problem if they supply ASTM standard gasoline as recommended by ASTM.

Assemblyman Carpenter:

Should they be doing that, as good citizens?

John P. Sande:

I think all the fuel from California that comes into southern Nevada meet ASTM standards for southern Nevada.

Assemblyman Carpenter:

Do they take any Reno gas to Las Vegas, or only Salt Lake City?

John P. Sande:

I do not know the answer to that. My concern is not in this particular instance. My concern is that if the State does not have ASTM standards, we have nothing. The consumer in the state of Nevada is going to be in trouble because they will potentially get gas that does not adequately run their automobile. With ASTM a lot of cars may run fine, but a certain percentage will not. Nevada should have some requirement to make sure the Board of Agriculture has the ability to regulate this gasoline.

Assemblyman Carpenter:

You are telling me that it is strictly an automobile situation, that the automobile companies have nothing to do with it?

John P. Sande:

That is exactly what I am saying.

Assemblyman Carpenter:

They do not have any problem supplying southern Nevada with the kind of gas that it needs?

John P. Sande:

No, they do not. The oil industry testified before the Blue Ribbon Commission of Clark County stating that Clark County should put in a pipeline from Phoenix to Salt Lake City so that Clark County could increase its supply. That is the long-term issue Clark County has to address.

Assemblyman Marvel:

Did someone inadvertently put bad gas in their car?

John P. Sande:

My understanding is that when people have trouble with their cars running improperly, they do not go to the fuel suppliers, they go to the dealer where they bought the car.

Assemblyman Marvel:

Have there been lawsuits brought against the dealer?

John P. Sande:

They have a lot of hot fuel handling issues even with ASTM standards because of the heat in southern Nevada.

Alfredo Alonso, representing the Alliance of Automobile Manufacturers:

We support this bill for various reasons. Obviously, the drivability issue is a significant one. We work with ASTM to make sure those fuel standards are met. It is important that we have a floor, and that is ASTM. It will change very little in this State. The only change is the issue that Mr. Goicoechea mentioned with respect to some fuel coming into Nevada from Utah below the 38th parallel. That is something that is very new, going back about a year. These folks will go back to what they had been doing. If the gasoline in that area meets the ASTM standards they will be able to purchase from a dealer that meets those standards for that region. It is important because it is our dealers that are the first to get hit when someone's automobile is not working because of fuel issues. It is very difficult to detect. Elko and Eureka will not see any difference, but it does make one thing certain: If gas comes from places that do not meet those standards, then that will be something that the Board will need to address.

Assemblyman Goicoechea:

Where is the 38th parallel set? Is that in regulation? It is not in the bill.

Alfredo Alonso:

I believe it is in regulation. The Board of Agriculture may be able to answer that.

[Chair Claborn left the room.]

Vice Chair Hogan:

Are there any questions for these gentlemen? [There were none.] Do we have any witnesses in favor of the bill? [There were none.] Let us have those who are prepared to testify in a neutral mode.

Doug Busselman, Executive Vice President, Nevada Farm Bureau:

We do not have a position in favor of or in opposition to this bill. From a policy standpoint, if you are going to hard-wire ASTM standards in, why do you have the Board of Agriculture put in the position of deciding anything? If the standards are the standards, there is no reason, from a policy standpoint, to give them a choice to do something other than what the standards say. That is where they have gotten in trouble. They had a choice, they made a choice, and that, apparently, was not the correct choice. So why is the Board given the ability to be wrong? There was mention made that there are lots of

problems in southern Nevada, even with the ASTM standards. If that is the case, what does it say about the standards? The standards are supposed to protect you from that happening. Fundamentally, we have a problem with not knowing what the specifics of the standards are, and having to adopt them with four letters and a bill, and we are supposed to know everything about them. There have been times we had that occur, and there has been more to the standard than we knew.

[Chair Claborn returns.]

Chair Claborn:

Mr. Krueger, would you like to testify on this bill for the opposition?

Peter Krueger, representing the Nevada Petroleum Marketers and Convenience Store Association:

This is a trade association that I have represented for 20 years. I hope to correct what I believe were numerous misstatements made by the proponents of this bill.

The characterization was made by the Department of Agriculture more than four years ago, approving a proposal that our Association brought forward to eliminate the 38th parallel as an artificial barrier below which northern fuel can be transported. The first meeting was held May 8, 2003. This process had continued from May 2003, following public hearings after which everyone received public notice, the Board of Agriculture adopted, and the Legislative Counsel Bureau approved on September 21, 2003. This has been on the books for quite some time. There are many ASTM standards. In Section 1 of the bill it says "the State Board of Agriculture shall adopt the most recent standards specifications." Does the State adopt ASTM standards and use depth procedures? It did, it does, and it will. The Board of Agriculture has approved three variations in these ASTM standards. These were variations by the Board, who represent all the people of Nevada, felt were in the best interests of the people. The first variation was the higher sulfur in northeast Nevada. That was because, at the time, the EPA was requiring a lower sulfur fuel, and since northeast Nevada was not able to get to that lower sulfur as quickly, that was one exception. That has gone away because the refineries, primarily in the Salt Lake area have come up to standard. Eighty-five octane fuel was an exception. It has been adopted by ASTM, so that exception in Nevada has gone away. The 38th parallel is the last exception. The fact that the Board approved this exception in 2004 is incorrect.

Another part of the bill that concerns us is Section 1, subsection 2 which allows the Board to make changes to the ASTM standard as long as they are proposed by air quality agencies. In the future, the only people who can petition the Board to make changes, such as our Association did back in 2003, are air quality agencies, and they are defined as state, regional, local, and whatnot. That is not in the best interest of the public. That would say that only the air quality districts in Clark and Washoe Counties, and the State could petition for changes.

Section 1, subsection 3, which is the variance language that Mr. Sande talked about, is vague and unworkable. It allows the Board to consider that, but there is some specific language in there, such as "circumstances beyond the person's reasonable control." What is that? Right now all fuel suppliers are on allocation, and this situation is not unusual. Allocation means nothing more than the marketer who buys vast quantities of fuel off the pipeline can only buy as much fuel from their refinery as they bought a year ago this month. Even though Clark County is growing, a supplier cannot have any more fuel sold to them than they bought a year ago. We have a precarious fuel situation referred to by the Blue Ribbon Commission. It is a precarious balance between growth and supply. Refineries are operating at capacity. Is price affected by supply? Absolutely, when supply is tight, price goes up. We believe that the variance language that has been proposed by the sponsors of the bill is almost a red herring because it does not get to the heart of the matter. The fact that a person has to go to the Board of Agriculture, which meets periodically, and has to prove that the situation they are in is beyond "reasonable" control is a standard that is almost impossible to meet.

We talked about the 38th parallel. Are there other lines of latitude? The 38th parallel was set up when vapor-lock was a factor. We talk about volatility, but revapor pressure (RVP) is the technical term. The entire State, with the exception of Washoe County, is on RVP of nine pounds per square inch. The higher the RVP, the more difficult it is for the fuel to vaporize. In talking about the 38th parallel, it was identified correctly. Communities such as Alamo, Ash Springs, Beatty, Caliente, Panaca, and Rachel are affected by the change made by the Board in 2004. The action the Board took three years ago helps ensure that people are buying gasoline at a fair price. Weed Distributing, out of Ely, is a member of our Association. They are one of the largest suppliers of fuel below the 38th parallel. If S.B. 105 (R1) passes, and restricts the Board, it is a bad policy. The Board, which is made up of members appointed by the Governor, and a Legislative Body say that you cannot have any authority in that area. If this passes, distributors will be forced to supply Lincoln County out of Las Vegas. There are marketers that do not have relationships in the Las Vegas market because they are in White Pine County

and they draw the majority of their fuel out of Salt Lake. Therefore, if they are forced back again they will have to split their purchases between north and south; therefore, their volumes would decrease and they would be unable to buy as a supplier in the volumes necessary to get good pricing. We feel this is another reason that this bill is an overreach.

The system is working. It is not a situation that my members are very happy about. What we are trying to do is take this variance procedure and expand it a little bit. In subsection 3 of the bill you can see the wording. We are suggesting that if this Committee wants to move forward, if it feels that the policy decision of taking away the authority of the Board of Agriculture is more important in this issue, then we would ask that the Committee consider our amendment which simply says that on petition, the director of the Department of Agriculture may grant a person a temporary variance from the standard specification for a period of not more than 14 days, and it applies in counties of less than 50,000 people. The director of the Department of Agriculture can do this. We think that is not a good compromise because that ties the hands of fuel suppliers. When they need to service that market they have to ask for a variance. We believe the system is working, as is.

The proposed bill referred to the CRC study. The CRC tests were done in Washington where it is not as hot as it is in southern Nevada. The CRC completed a study in Phoenix. The conclusion of the 2006 CRC hot fuel handling program is as follows: "Under high ambient temperature conditions this program provides too few drivability demerits to assess the effect of fuel volatility properties or ethanol content on hot fuel handling drivability." We agreed and the stake-holders paid about \$30,000 to have DRI look at it. They could not establish a conclusion. While we did not pay for this study, we told the Board of Agriculture that we would live by it, and would be prepared to reopen the hearings on the 38th parallel if you had a conclusion that indicated that the consumer and the driver in Nevada were adversely affected by the change of 2004.

Chair Claborn:

Are there any questions for Mr. Krueger?

Assemblyman Marvel:

Did you get the same estimate with the Senate?

Peter Krueger:

Yes, but it was much better here. I went before the Senate thinking that good policy would prevail. I was wrong.

Assemblyman Hogan:

The 38th parallel was adopted in 2004, and I am most interested in how it is applied in the decision toward what standards are observed in different parts of the State. The rule that has been adopted means that this arbitrary line is a line below which a different standard applies and which is the standard that better copes with the problem of volatility. The standard applied is not as strict in the northern part of the State. Is that approximately what the 38th parallel means?

Peter Krueger:

Yes. The 38th parallel has been around since the late 1960s, dividing and bifurcating Nevada. Utah, which most people would agree, has the same altitude and temperature and has one standard which is the same standard that we have north of the 38th parallel. In 2004, our Association petitioned that the 38th parallel be eliminated so that fuel can go south, but it cannot go into Clark County because they have specific needs.

Assemblyman Hogan:

The requirements that are peculiar to Clark County are because of its own agency protecting the environment. They would not permit the northern fuel to come into Clark County even if the Department of Agriculture did not apply the 38th parallel rule?

Peter Krueger:

That is correct because there are trade-offs called environmental credits. Clark County can choose to allow the higher volatility fuel in, but to get the same credit from the federal EPA on the SIP, they may have to adopt carpooling or other methods. This was the least painful way for the citizens of southern Nevada to achieve the credits and for Clark County not to be punished by loss of highway funds.

Assemblyman Carpenter:

Are you saying that the fuel from Salt Lake is not going into Clark County?

Peter Krueger:

It is against Clark County regulation to do so. I can assure you that the Nevada companies, whom I represent, are not violating this regulation.

Assemblyman Carpenter:

Where does the fuel from St. George, Utah, come from?

Peter Krueger:

Many times it comes out of Las Vegas.

Assemblyman Carpenter:

What about fuel from Reno going to Las Vegas?

Peter Krueger:

It has, and it does. It is based on economics.

Assemblyman Carpenter:

Maybe there it is more fuel from Reno than Salt Lake?

Peter Krueger:

No, because transportation routes are not as efficient from White Pine County down through Lincoln County.

Assemblyman Goicoechea:

Is there a meridian from east to west?

Peter Krueger:

No. There was a sulfur rule, but that has gone away because we have gotten ultra-low sulfur products.

Assemblyman Goicoechea:

There is no prohibition from east to west? It is only Clark County?

Peter Krueger:

It is Clark County and Washoe County.

Assemblyman Goicoechea:

The Salt Lake fuel can go into Washoe County?

Peter Krueger:

No, because the two areas that have restrictions based on air quality issues are Washoe County and Clark County.

Chair Claborn:

Is there any more opposition for S.B. 105 (R1)?

Vernon Miller, Senior Petroleum Chemist, State Department of Agriculture:

We do not oppose this bill. We remain neutral because of something that was brought to the Department of Agriculture by Peter Krueger's group. We feel that the Board of Agriculture is the right agency to make the decision on fuel quality in the State. We feel that if we were to pass this, it would take the decision away from the Board of Agriculture, and we do not agree with that.

I will answer questions dealing with the 38th parallel, ASTM, or with some of these hot-fuel handling issues.

Chair Claborn:

Are there any questions for Mr. Miller?

Assemblyman Carpenter:

What do you mean by hot fuel?

Vernon Miller:

Hot-fuel handling is not a matter of the ambient temperature of the actual fuel. When the fuel goes into a warm engine you have a period of time called a hot soak. The engine is still warm, and the fuel is still in the lines, and if the temperature is warm enough, some vaporization in the line occurs. That is where hot-fuel handling comes into play. It is an issue that does not deal with the actual ambient temperature.

Assemblyman Carpenter:

What do you think about the fuel going into the Las Vegas area? Do you think it meets the standards which are necessary for Las Vegas, or not?

Vernon Miller:

The CRC report was not able to find any huge demerits against the fuel. I feel that the change would not affect newer vehicles because of the computer systems that are available; the technology allows the car to adjust. As a representative of the Department of Agriculture, and as a consumer, it is important to have the ability to have different supply points for fuel. The Board of Agriculture made a decision based on fuel supply. This is not what the Board of Agriculture should base their decision on, but we do not have an agency close by that can do that for us. Our Governor wants Nevada independent. This allows us to get fuel from different supply points. We can bring fuel in from Salt Lake City, from Arizona, and California. It allows us to not have an issue with fuel supply. Our economy thrives on tourism. There is not enough data to say that we will have issues, but I feel that having a supply for the State of Nevada is huge. What we have done as a Board is a short-term fix. A short-term fix is better than no fix at all.

The DRI mentioned that a variance procedure is something that is needed. A variance procedure is not something that we can draw up quickly, and it is expensive. This issue has brought out some new avenues of discussion between the automobile industry, our agencies, and the Automobile Alliance Association. There is a lot of work to be done with the variance procedure, and I know the Board of Agriculture would like to work with the folks in Mr. Sande's

group and the Automobile Alliance Association to come up with something that will be beneficial to the State.

Assemblyman Hogan:

This is hypothetical, but in your judgment would it cause any serious problems in terms of having the proper types of fuel available, if the standards applied to different parts of Nevada did not include artificial lines, including line of latitude? Would banishing this artificiality cause any serious problems, or would it be a reasonable thing to consider?

Vernon Miller:

Given the history of the changes made to the 38th parallel rules, it would still cause problems. We would still have some opposition to that. As Mr. Sande and Mr. Krueger mentioned, the 38th parallel was referred to as an imaginary line, but it was made a natural line of demarcation where there is a difference between temperatures and elevations. It stems from being a supply issue, and it raises the question dealing with the price of gasoline. The fuel quality that we have that is available to consumers across the country, is of the quality that any car should be able to run on, be it warm or hot.

Chair Claborn:

Are there any questions? [There were none.] Mr. Sande, would you like to come and have the final say? We are going into work session as soon as we can.

John P. Sande:

I looked at the proposed amendment on the variance that was presented by Peter Krueger. I do not think that the language drafted on the Senate side was ambiguous. It was drafted in accordance with California law which I understand works very well. I have no problem if you want to adopt his language. Our goal is not to make it difficult for somebody to get a variance. We want to make it very easy if there is a supply shortage. Our only concern is that the gasoline that we sell, and for my car dealers in particular, is of an adequate quality. The only thing we have in Nevada, and the surrounding states, is ASTM. We would be more than happy to have that amendment.

Chair Claborn:

Is there anyone else opposed to S.B. 105 (R1)? [There was no one.] Are there any comments on S.B. 105 (R1)? We are closing the hearing on S.B. 105 (R1) and going to a work session. We will start with Senate Bill 60. Ms. Ruedy?

Senate Bill 60 (1st Reprint): Establishes requirements concerning the expenditure of proceeds collected from administrative penalties for certain violations concerning the control of air pollution. (BDR 40-347)

Jennifer Ruedy, Committee Policy Analyst:

Senate Bill 60 (1st Reprint) refers to air quality. [Read from prepared text ([Exhibit F](#)).] This was heard on May 2nd, and there were no amendments presented to the Committee.

Chair Claborn:

I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS S.B. 60 (R1).

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

Chair Claborn:

Is there any discussion on the motion?

Assemblyman Grady:

Are they getting this money now, or is this new money to be given to them?

Chair Claborn:

The reason we heard this bill, was to get more money on the Senate side. It did not work, so the sponsor brought it to us to make sure they did not lose any money. It is old money. He is afraid that he might lose some of that money which is why he continued on with the bill. Is there any more discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Chair Claborn:

We will go on to Senate Bill 486. Ms. Ruedy?

Senate Bill 486: Makes various changes concerning the ownership of brands for livestock. (BDR 56-622)

Jennifer Ruedy, Committee Policy Analyst:

[Read from prepared text ([Exhibit G](#)).] This bill was heard on May 7, and there were no amendments proposed at the hearing.

Chair Claborn:

I will accept a motion.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS SENATE BILL 486.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Claborn:

Mr. Hogan, would you do the floor statement on S.B. 60 (R1), and Mr. Marvel will you do the floor statement on S.B. 486? Ms. Ruedy, will you give a little history on Senate Concurrent Resolution 3?

Senate Concurrent Resolution 3: Expresses support for the Tahoe Science Consortium. (BDR R-251)

Jennifer Ruedy, Committee Policy Analyst:

[Read from prepared text ([Exhibit H](#)).] There were no amendments proposed at the May 2nd hearing of this Resolution.

Chair Claborn:

I will accept a motion.

ASSEMBLYWOMAN SMITH MOVED TO ADOPT S.C.R. 3.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Claborn:

Mr. Ohrenschall, would you do the floor statement? We will go to Senate Joint Resolution 12. Ms. Ruedy?

SENATE JOINT RESOLUTION 12: Expresses disapproval of recent civil actions filed against local ranchers and the Bureau of Land Management in the management of public rangelands and the issuance of grazing permits for those public rangelands. (BDR R-396)

Jennifer Ruedy, Committee Policy Analyst:

[Read from written text ([Exhibit I](#)).] There were no amendments proposed to this Resolution at the hearing on May 7.

Chair Claborn:

I will take a motion of S.J.R. 12.

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS S.J.R. 12.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

Chair Claborn:

Is there any discussion on the motion?

Assemblyman Hogan:

I am not sure what the effect of S.J.R. 12 would be, and because my knowledge of the various civil actions filed is limited, I feel unqualified to render an overall judgment that these civil actions are inappropriate and should not be approved. I will not be able to vote in favor of S.J.R. 12.

Chair Claborn:

Do you want any more discussion? Mr. Bobzien.

Assemblywoman Bobzien:

I join in some of the reservations. I do not think I am familiar with all of the lawsuits in question. I also have some hesitancy in making comments editorially on ongoing litigation. However, I will be voting in favor of the S.J.R. 12 out of deference to my colleagues from the rural counties.

Assemblywoman Smith:

I do not love this bill, but I do love my rural colleagues. Because it is a resolution, I can support it.

Chair Claborn:

Is there any more discussion on the motion?

Assemblyman Goicoechea:

I support my colleagues. The bottom line is most of these are actions that are taken on grazing allotments. If there is an adjustment on grazing allotment, the regulations determine that if there is any change in the seasonal use and/or time frame the grazing land can be used. If it exceeds 15 days, the situation is open again for public comment. We are not talking about buying, retiring, or selling large blocks. We are talking about small changes in grazing management. There are groups that wait for public notice, because it is required under the new regulations, then they step into the middle of it. It is not that they are going to stop or that there will be any change occurring in the ground, but it could slow the process up 30, 60, or 90 days. That is their intent. There is an economic downside to this, and it does not do anything of any value as far as the management is concerned.

Chair Claborn:

We have a motion, do we have any more discussion?

THE MOTION PASSED. (ASSEMBLYMAN HOGAN VOTED NO.)

Chair Claborn:

Is there any new business to bring before the Committee? Is there any old business to come before the Committee? Are there any comments?
[There were none.] [Meeting adjourned at 3:32 p.m.]

RESPECTFULLY SUBMITTED:

Christina Van Fosson
Committee Secretary

Patricia Evans
Transcribing Secretary

APPROVED BY:

Assemblyman Jerry D. Claborn, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture, and Mining

Date: May 9, 2007

Time of Meeting: 1:34 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|-------------|----------------|--|-----------------------|
| | A | | Agenda |
| | B | | Attendance Roster |
| SB 329 (R1) | C | Steve Ricker, Nevada Humane Society | Testimony |
| SB 329 (R1) | D | Bryan Davis, Pet Network Animal Friends | Testimony |
| SB 329 (R1) | E | John P. Sande, Nevada Franchised Auto Dealers Association and the Western States Petroleum | Prepared Text |
| SB 60 | F | Jennifer Ruedy, Committee Policy Analyst | Work Session Document |
| SB 486 | G | Jennifer Ruedy, Committee Policy Analyst | Work Session Document |
| SCR 3 | H | Jennifer Ruedy, Committee Policy Analyst | Work Session Document |
| SJR 12 | I | Jennifer Ruedy, Committee Policy Analyst | Work Session Document |