

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

**Seventy-Fourth Session
March 8, 2007**

The Committee on Transportation was called to order by Chair Kelvin Atkinson at 1:33 p.m., on Thursday, March 8, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 Kelvin Atkinson, Chair
Assemblyman Mark Manendo, Vice Chair
Assemblyman David Bobzien
Assemblyman John C. Carpenter
Assemblyman Jerry D. Claborn
Assemblyman Ty Cobb
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Pete Goicoechea
Assemblyman Joseph Hogan
Assemblywoman RoseMary Womack

GUEST LEGISLATORS PRESENT:

Assemblyman William Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
Christine Henriksen, Committee Secretary
Matt Mowbray, Committee Assistant

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OTHERS PRESENT:

Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department
Robert Duvall, Lieutenant, Las Vegas Metropolitan Police Department
Susan Fisher, representing Nevada Powersport Dealers Association
Dick Mills, Owner, Pick-N-Pull
Peter Krueger, representing Nevada Garage and Emission Testers
John Sande, representing Nevada Franchised Automobile Dealers Association
Troy Dillard, Administrator, Compliance Enforcement Division, Department of Motor Vehicle
Cam Ferenbach, representing The Meadows School, Las Vegas
Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles
Andy MacKay, Chairman, Transportation Services Authority

Chair Atkinson:

[Meeting called to order. Roll taken.] Today we have two bills before the Committee. We have Assembly Bill 141. The author is Assemblyman Horne; then, we have Assembly Bill 154 which is the Committee on Transportation's bill, which I will be presenting, and our Vice Chair Manendo will be presiding at that time. We will hear Assemblyman Horne's bill first, and then we will move to my bill.

Assembly Bill 141: Makes various changes to provisions concerning vehicles and vehicle parts with altered or missing identification numbers or marks. (BDR 43-409)

Assemblyman William Horne, District No. 34:

Today, I present Assembly Bill 141. It is a piece of legislation that attempts to give law enforcement additional tools in dealing with stolen auto parts. As many of you have heard, especially those of you who are not in your first session, Nevada experiences high costs in the area of automobile insurance. One reason we have high rates of auto theft is because of chop shops stealing cars and selling them for their parts. Many of these cars are more valuable dismantled than they are in their totality as operating vehicle. This bill is an attempt to give law enforcement another means to come after these chop shops, their primary target.

Many automobiles, as the experts will explain to you in more detail, have various types of serial numbers. Most of us understand that the cars have a

vehicle identification number (VIN). You see it on the dashboard on the driver's side and it identifies that car. In the old days, the typical thing was when you stole a car you tried to change the VIN number so it could not be readily identified as a stolen vehicle. Now we have parts, doors, engine parts, bumpers, et cetera, with identification numbers. Car thieves try to change these numbers by scratching them out or altering them, making it difficult to identify them.

This bill stipulates that if you have an auto part and recognize that its identification number has been obliterated, or altered in any way, you have an obligation to notify law enforcement. It is not mandated for an auto mechanic to search your car for these numbers to determine whether they have been altered or scratched out. Notification will help law enforcement get a handle on these stolen parts operations that are going on, especially in Clark County. As a criminal defense attorney I have many clients in my area who have been arrested for possession of a stolen vehicle or possession of stolen vehicle parts. The parties who came to me had some concerns with this bill, particularly in Section 7, paragraphs 1 and 2, and offered amendments or a deletion, because the bill as drafted is a bit overbroad ([Exhibit C](#)). These are friendly amendments and I have no objections to them. Sergeant Roshak of Metro and others will be coming forward to present this bill in its totality.

Assemblyman Carpenter:

I see that you are changing the penalty from a category D [felony] to a gross misdemeanor. What is the rationale?

Assemblyman Horne:

Are you speaking of Section 8, paragraph 2, "A person who fails to provide immediate notification ..."?

Assemblyman Carpenter:

I am referring to the bottom of page 7.

Assemblyman Horne:

I see where that is located, Mr. Carpenter. Sergeant Roshak is going to address that for you.

Chair Atkinson:

Mr. Carpenter, did you want the sergeant to come up now and address it?

Assemblyman Carpenter:

No.

Assemblyman Claborn:

Are we talking about all body parts, fenders, bumpers, and so on, or are we just talking about engines parts that have a number?

Assemblyman Horne:

We are talking about automobile parts that have identification numbers, serial numbers, et cetera. This is not directed at legitimate auto dealers or auto shops, but they will still have a duty to contact law enforcement should they discover and identify parts that are stolen.

Assemblyman Claborn:

I have a constituent in my neighborhood who works for a parts house that delivers to auto body shops. He asked me to put in a bill draft request (BDR) for him. I told him I was sorry that I do not have any. An example of his concern was that he goes to his employer, and they load his truck with parts, say, for a Chevrolet. He takes these parts to the auto body shop that ordered them. The shop might have a Cadillac they are fixing, and they tell the owner it will cost \$900 for this door and \$800 for that door. They bring those Cadillac parts over and set them on the side. Once the bill is written out and the owner of the Cadillac leaves, they call my constituent back to load the truck with Cadillac parts and bring in those cheap Chevrolet ones that will fit a Cadillac. They are the same doors but they are not built the same. This is running rampant in his whole industry in Las Vegas. This will have to be looked into sooner or later. If I had a BDR, I would have a bill to deal with this issue. Thank you for what you are trying to do. It is a good bill and I commend you for doing it.

Assemblywoman Womack:

My children own an auto body shop in Las Vegas. I have been in the office when someone has pulled up in a truck and said they have all kinds of parts in their truck for sale. My son tells them he has accounts with parts dealers and he gets them through his accounts. When they left I asked him who they were. He said they were chop shops. They come around in trucks to the various auto repair shops. Instead of "Do you want to buy a watch?"; it is "Do you want to buy a radiator?" This is what is happening, and I have seen it happen with my own eyes. Thank you for bringing this bill forward.

Assemblyman Hogan:

Could you or one of the other witnesses give us a little rundown on who is liable? What does knowingly mean? What kind of a test do we have for knowingly? The people, who handle these parts, might have different degrees of knowledge, or responsibility. I was wondering if there were any problems in that area, or if we have a bill that is clear, clean and fair enough?

Assemblyman Horne:

Let me give you two different scenarios. Shops that are not as reputable take parts and turn a blind eye. As a criminal defense attorney, you can make a strong argument that you knowingly accepted stolen auto parts. It would not be a strong defense to say you never looked at the parts to see if those numbers were filed away. You buy a Rolex and paid \$500 for it; you have a pretty good idea that it was a stolen watch.

The other definition of knowingly is what the average Joe American understands: you observed those serial numbers filed down and did nothing. You just turned a blind eye and said it was not my business. I believe this engine block or whatever was stolen, but I was just hired to repair it, and I am going to repair it. That is knowingly. Those are your definitions and how they are treated in the courts.

Chair Atkinson:

On page 3, starting at line 29, Vice Chair Manendo and I are trying to distinguish the two. It says here ..." is guilty of a category D felony and shall be punished as provided in *Nevada Revised Statutes* (NRS) 193.130, and may be further punished by a fine of not more than \$30,000." But then, on page 7, line 42, it reads "...guilty of a gross misdemeanor...." I am not sure if we are missing something or there is difference. I am confused.

Assemblyman Horne:

Sergeant Roshak and the others will explain it in more detail. One section deals with a vehicle dealer and the other deals with an individual who is in possession. You have a higher standard for those operating as vehicle dealers.

Chair Atkinson:

It will be a different fine?

Assemblyman Horne:

Correct me if I am wrong, or misinterpreted this. Say you are a jewelry store owner, and you are in possession of jewelry that you know was stolen. Your penalty is going to be greater than, say, Assemblyman Atkinson who is in possession of a stolen watch that he bought off the street. In theory, you are possessing the stolen property but not as a dealer. Those are the two differences and how we treat those differently.

Chair Atkinson:

The difference is one person possessing and the other person distributing.

Assemblyman Horne:

One is dealing in the industry.

Chair Atkinson:

It makes sense.

Assemblyman Goicoechea:

How good is the database we have on these parts? Why would you take the chance of altering the number on it? Why not just go ahead and put it on with the number in place? Do we have enough of a database there?

Assemblyman Horne:

I am not qualified to give you actual numbers in databases. I know the newer cars have more serial numbers than in your grandfather's Studebaker. You can identify the factory where the car was manufactured, the date, and time with these numbers. In fact, many of these numbers are in secret places for the very purpose of verifying identification. The database is growing, and includes more of the newer model cars and trucks than ten or more years ago.

Assemblyman Goicoechea:

We are not going to put the responsibility on the garage man or repairman to run that number?

Assemblyman Horne:

No. This bill does not say that if you see a number you have to check it against a database. You put a car up on the lift, you see a number, it looks normal, and you go on about your repairs. But, if you see an area where there is supposed to be a number, the way your VIN number is attached to your dashboard and that has been removed, obliterated, scratched off, or sanded away with a file, that is when you have to notify law enforcement. Repairmen do not have a duty to search for the number or run every number through the database.

Assemblyman Goicoechea:

The bottom line is, do not try to grind the numbers off and sell the parts.

Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department:

I would like to thank Assemblyman Horne for carrying this bill forward for us. It is quite a problem we have in southern Nevada. Passage of this bill will help us mitigate some of our problems with stolen vehicles. Assemblyman Horne explained the bill very well. I would like to pass this to Lieutenant Duvall from our Auto Theft Unit.

Robert Duvall, Lieutenant, Las Vegas Metropolitan Police Department:

This bill is one more tool we need to combat the auto theft problem in southern Nevada, and the problem, to a smaller degree, around here. In Las Vegas we have brought back a lot of investigative techniques from other police departments. We are now beginning to turn the tide. For the first time in ten years, we have seen a decrease in auto theft in Clark County. We need to push forward and keep going so we can continue this decrease. This bill allows us to go after the chop shops.

Currently, if you have a high-end sport utility vehicle (SUV) and it is stolen, the parts will appear somewhere. When we find those parts, if we have no way to identify them, then we have no reason to take them. Therefore, crime is profitable. If we have a way to get them back to their rightful vehicle and owner, then justice is served.

We reorganized the Auto Theft Unit in Las Vegas Metro in May of last year. In the first two months we executed search warrants on 12 chop shops. Some of them were like the ones you see in the movies, where you roll up the big garage door and there are a bunch of cars; some of them were just the side yards of houses or residential garages.

When it comes to some basic parts, fenders, doors, hatchbacks to certain cars, and especially Honda engines, if the numbers were scratched off, most of the body parts—the interior parts—were hard to get back to their rightful owner. We could not identify them. If they had the National Highway Transportation Safety Administration (NHTSA) sticker attached, then we were able to trace them back. Yes, there is a database we can research to find the VIN number of the vehicle it belonged to, and we also run that VIN number and find out where that part truly belongs. That is what this bill does for us.

Assemblyman Carpenter:

I was wondering about the change of the class D felony to a misdemeanor?

Robert Duvall:

As Assemblyman Horne explained, there was a difference between those who are in the business and those who are not. There is a higher standard. The first part of this page deals with those we call, for lack of a better term, "auto parts traffickers," the chop shop people. On page 7, Section 15, subsection 3, lines 4 through 8 states "... a person who knowingly: buys with intent to resell; disposes of; sells; or transfers," As Assemblywoman Womack explained, there are people who sell auto body parts and take business from the legitimate body shops because their parts come from vehicles that were stolen. Of course, the price is going to be much less, and there is currently no penalty for

erasing the identity of those parts. Body shops can buy those parts, put them on another car, and make a considerable amount of money. That is how the legitimate body shops get hurt. The traffickers are the ones who have the higher degree of punishment with the category D felony. The one who knowingly possesses, this may be someone who went to a chop shop, found out it had the right fender for the car he wrecked, and changed fenders and is now a possessor. He is not the one trafficking the part. This is where the gross misdemeanor comes in. We are trying to have a tiered-system; if all you are doing is possessing a part, we will slap your hand the first time, but if you are trafficking, we want to punish you more severely.

Assemblyman Carpenter:

I do not understand. If I wreck my car and I need a fender, I go to someone and he sells me a fender. I do not know anything about it except it will fit my vehicle. Someone finds out that it was stolen, I could be charged then with a misdemeanor?

Robert Duvall:

No sir. If you were to wreck your car and you needed to replace a fender, you would go to a legitimate body shop and they would replace it. They get an aftermarket part say, directly from General Motors, and that part is recorded by the body shop when it is put on your vehicle. We are after the ones who go to chop shops, whether it is a side yard, garage, or even a legitimate business that does business after dark and puts stolen parts on a vehicle. If you are doing business with a legitimate body shop, the chances of your getting a stolen auto body part are very small. That is where the knowingly part comes in and is usually manifested by the circumstances when we find these parts. When we find them on a car inside a chop shop, and there are other circumstances that say, yes, this person knew these parts were stolen, then we can apply the charge.

If you are someone who did business with a legitimate body shop, and somehow the stolen part made its way to your car, we are not going to hold you accountable. This scenario played out in Las Vegas not too long ago. A person bought a car from a dealership, and it was a case of VIN switch. We received the information and checked the car. We had to take the car because it had a rightful owner, but the person who bought it in good faith and the dealership were not charged because we could not say they "knowingly" did this. We were still able to get the stolen property back to its rightful owner.

Assemblyman Carpenter:

Would the person who bought and paid for the car be out [of luck] for whatever he paid for the car?

Robert Duvall:

Generally, this situation has to be worked out in the courts. In this particular incident, the dealership gave the customer another car. The dealership will pursue it in court. What is nice about this situation is that we had something to go back and check. Somebody brought this car into the dealership, and he had an identification chain for us. This is a person who probably knowingly possessed that stolen car.

Assemblyman Manendo:

On page 3, lines 26 to 28 ...'unless the motor vehicle or part has an identification number attached to it which has been assigned or approved by the Department....' Is that the Department of Motor Vehicles (DMV)?

Robert Duvall:

Yes, sir.

Assemblyman Manendo:

Does the DMV have a list of all the parts of every car that has an identification number on it?

Robert Duvall:

I cannot really speak for the DMV, but my understanding is they will assign a number that will somehow be referenced back to the original VIN number.

Assemblyman Manendo:

Are those numbers given out to every single legitimate body shop or garage in the State, and will they have a list? Otherwise, how are they going to cross-reference? Not every part has an identification number.

Robert Duvall:

Correct. The only vehicles that have identification NHTSA stickers on their parts are usually the very high-end cars or very commonly stolen cars. If it is stolen and then recovered—for instance, a fender was stolen and the NHTSA sticker was removed from it—the DMV would apply a different sticker to it should that part be reissued back to the original owner.

Assemblyman Manendo:

Who would get this information? How do these places obtain the lists of numbers matching up with parts now? How does that work?

Robert Duvall:

There is a huge database that we use which we refer to as ISOnet. I am not sure who originated the database. It can tell us about any type of auto part number.

Assemblyman Manendo:

Is it on the DMV website?

Robert Duvall:

Yes, sir.

Assemblyman Hogan:

In Section 7, we seem to be imposing an obligation on the body shop and the employee who may be working on the particular vehicle when he discovers an obliterated or altered number on the parts involved. They have a distinct obligation now to notify the local police or the DMV. How much of a problem would it be, because there is a heavy penalty if they fail to report? Regarding the \$30,000 fine and category D felony, their degree of involvement and guilt seems to be quite a bit less than the people who are actively involved in obtaining the stolen parts. Do we want the heaviest penalty for negligence, the busy repair person who fails to make that notification? I understand that it is crucial to the police, but you certainly should require that report. If I were the mechanic, I would feel that I made a mistake, but not one that should cost \$30,000. Do you have any comment on that?

Assemblyman Horne:

Paragraph 3, Section 7, lines 23 and 24, expressly states "...otherwise knowingly possesses...." The scenario you painted, Mr. Hogan, on a negligent standard is not what this bill is addressing and attempting to combat. This bill is targeted at those who operate in this type of activity, those who knowingly see it and decide not to do anything. It is not targeted at the repairman who comes across an obliterated serial number and does not see it. He does not meet the knowingly standard. Law enforcement speaks to this; their plates are very full, and they do not have to start targeting legitimate businessmen to use this tool. They have plenty of work going after wrongdoers in the business of stolen auto parts.

Robert Roshak:

The section you are talking about, Mr. Hogan, is Section 8, page 3, which talks about having to notify the police if the number is obliterated. The penalty for that is a misdemeanor.

Assemblywoman Womack:

What about the auctions? There are so many new car auctions happening around southern Nevada and also right over the state line. What is being done to verify that the cars going through the auction, coming in from out of state, are not stolen vehicles?

Robert Duvall:

You are exactly right. We are starting to look at that in Clark County; however, as mentioned before, there are so many problems with dealing directly with the chop shops and the thieves out on the street; this has not been our main focus point. We have been there, and we are learning to watch some of these auctions. If you have a car that is wrecked, a pile of sheet metal, and it sells for \$4,000 to \$5000, you know that people are buying it for other reasons. We have the ability to record the VIN number of that wrecked car, if a few weeks later that VIN number shows registered, we know we have an issue. It is something we are working on.

Assemblyman Manendo:

What if someone is painting or welding and they knowingly, not intentionally, make a mistake and a part of that VIN is damaged?

Robert Duvall:

That is not a circumstance where we could say he knowingly did it. If he is welding and destroys that number, he did not knowingly destroy that number. On the surface of your question, my answer would be there is nothing we could prove.

Susan Fisher, representing Nevada Powersport Dealers Association:

We admire the intent of the bill, but we are concerned with the proposed amendment to the bill. I am very uncomfortable with the term knowingly, being able to prove that we did not knowingly do something. It would be up to the dealers to prove they did not knowingly catch something. There are so many different types of motorcycles and parts out there, many times the VIN and serial numbers are in different areas, depending on the manufacturer.

One of my dealers in Reno said he has a warehouse full of parts dating back anywhere from two months to 30 years. Whether all those have VIN or serial numbers he does not know, and in going through and checking, he has had them for so long, he said he would not remember where they came from. We do see the bill as problematic at this time.

Chair Atkinson:

I understand your concerns. Did those of you who came in to testify against a colleague's bill try to work this out with the sponsor before today's meeting?

Susan Fisher:

I received the comments from my dealers today. I did let the sponsor know we have some concerns with the bill and I spoke with Mr. Roshak briefly prior to the hearing. We did not sit down with him and try to work out language since my dealers' comments came in late.

Dick Mills, Owner, Pick N Pull:

I own seven auto wrecking yards and four car dealerships. I have a handout ([Exhibit D](#)) that is a description of the different parts that are on a car. They are the motor, transmission, and every part from the beginning to the end of that car. It describes which cars get the motor vehicle VIN number. Any car that has a median theft rate of 3.5826 is required to have this, but there are exceptions. As a dealership or an auto wrecker, how do I know which cars are required to have this and which are not? Page 3, lines 6 through 9 of the bill, specifically requires us to identify every part on every car and to make sure those parts have not been altered or removed. It does not say, "if we come across a part;" it says we "shall inspect" each of those cars and parts. I understand that I would have to take that car completely apart and identify each of those parts.

Lines 16 through 19, says the same thing. I have given you an example of a part and its identification I cut off a wrecked car this morning ([Exhibit E](#)). Section 1 through 9, as I read them, are directed toward the licensed body shops, auto wreckers, and dealerships. Not too many chop shops, people driving around in their cars, or people with cars in their backyards are licensed body shops. I am on the Advisory Board on Automotive Affairs. We have had testimony by Troy Dillard from the DMV, and he gave us some facts. With all the body shops, salvage crews, and wrecking yards, only one serious violation has come from those legitimate shops that have licenses. This bill is putting the burden on the licensed auto wreckers and dealerships. I have no problem trying to curtail auto theft.

Assemblyman Claborn:

I have an old 1950 Studebaker, and I know you are going to have a hard time keeping up with the parts and numbers of vehicles like it.

Chair Atkinson:

This bill is proposing to go after the thieves. If your shop is not doing anything wrong, you do not need to worry about it. The prosecution needs to prove that

wrongdoing was done knowingly. I think we need to stay focused, and I know there is more to come.

Assemblyman Hogan:

If you see the language in the proposed amendment disappear would that resolve your concerns?

Dick Mills:

I have not had time to study it.

Assemblywoman Gerhardt:

I understood you are against auto theft as we all are; what are you doing as an industry to help solve this problem?

Dick Mills:

When I see that VIN numbers have been removed from a car, I call the DMV, and they have me report it to the local police department. I do not see our industry, the licensed people, as the problem. Chop shops and people driving around selling parts to body shops are the problem. I sell my parts all the time to body shops. It seems that these parts could be moved around many times.

Assemblywoman Gerhardt:

It seems to me you already do what the bill is asking. It is not going to affect you. It is for those who are buying and selling stolen vehicles and parts. They are the ones who are going to have some concerns.

Assemblyman Hogan:

How does this work from your business point of view? When you spot an inappropriate VIN or one that has been obliterated, do you run a serious business risk when you do what you should do and call it in? It might be a vehicle that the police decide to tow away, and you are without it for awhile. It may be a long time coming back. Is that something you worry about, or is it a requirement to report acceptable risk?

Dick Mills:

We have approximately 1,500 vehicles every month. We do this about five or six times a year. We put them aside for the DMV until they can get it straightened out. We are happy to do that, it is not a burden on our industry.

Peter Krueger, representing Nevada Garage and Emission Testers:

After hearing the admonishment from the Chairman, I just became aware of the proposed amendment, which we think will go a long way in improving the bill. Legitimate businesses are in the bill because what elected officials often have to

do is throw a net so wide, it cannot focus on just the illegal activity. We are required by the constitutional law to treat everybody the same. We are concerned about a legitimate shop owner who is licensed and, in the normal course of business, makes a mistake. Our concern is that while the amendment improves the bill, there is a responsibility to call in, which is not in the current law. Including the requirement to report discrepancies under penalty of a misdemeanor has a good and bad side. We are on record saying that we understand the Chairman's concern, but legitimate businesses are trying to do what is right.

Chair Atkinson:

Did you try to talk to the sponsors to rectify some of the issues that may concern you and your industries?

Peter Krueger:

I became aware of the amendment just before the hearing. I am in the same situation as Ms. Fisher. This went out ten days ago, and I still have not heard from my members.

Chair Atkinson:

You do not know if they agree with the bill or not?

Peter Krueger:

I know enough from my members who know ...

John Sande, representing Nevada Franchised Automobile Dealers Association:

I talked with the sponsor, as well as with Mr. Roshak, before the hearing. I did not want to testify, hoping we could work out the language. I do believe taking out subsection 1 and 2 of Section 7 would go a long way. As a lawyer, I want to give you my reading of subsection 3 because it refers to my clients. "A vehicle dealer who knowingly possesses a motor vehicle or part from a motor vehicle which as an identification number or mark which has been falsely attached, removed, defaced, altered or obliterated, unless somehow it has been approved by the Department, is guilty of a felony." I read it as you can knowingly possess the vehicle, not know the VIN number was falsely attached, and be liable for a felony.

Many times when a car is taken in trade we do not necessarily know that the VIN number has been altered in any way. Or we knowingly get a part, and usually if parts are from out-of-state they are shipped collect on delivery (COD). We pay for it, and then get the part. I am knowingly possessing it immediately.

What I would recommend first of all, instead of saying "falsely attached, removed, defaced, altered", et cetera, you might want to consider "stolen." If you want to leave that language in, I would say "a person," or in this case "the dealer who takes possession of a part or vehicle knowing that the identification number has been intentionally altered...." The felony would be when you take possession knowing that there has already been a crime committed. Under Section 8, it would be the same thing; you know that it has been intentionally removed. A lot of times these numbers can be defaced. You can work on a vehicle and unintentionally deface or alter a number, you should not have a problem. If it is a stolen car and you take possession knowing it is stolen, then you are liable.

Under Section 8, near the bottom of page 3, it says "...immediately notify the Department or a local law enforcement agency." A problem we had in Reno was that one of the car dealers had three thefts over the weekend. He contacted the City of Reno Police Department and could not get anyone. The people who investigate, because of their contracts, only work Monday through Friday. Instead of saying "immediately," you say "within a reasonable time." You get into a situation when there is a question as to what immediately means and there is no one to contact. Also, the DMV does not work on weekends. Again, we understand the problem; we know we have dealers in Las Vegas getting vehicles stolen from their premises. We would be more than happy to work and resolve these issues.

Chair Atkinson:

Did you have any of this in writing?

John Sande:

No, we were hoping to work it out. I will certainly give that to you in writing.

Troy Dillard, Administrator, Compliance Enforcement Division, Department of Motor Vehicles:

We have a neutral position on this bill. A couple of the sections put an additional demand on the Department; as such, a fiscal note was submitted with the bill. I would like to cover that briefly. The bill requires an investigative report within 30 days of any vehicle being seized. It requires anyone whose position is related to stolen vehicles at the Department to conduct the investigation. As of today, we do not have any positions matching that specific wording. There are two positions in the fiscal note, but I would like to point out that the Department has an enhancement unit in its budget this session that actually does add six positions throughout the State that deal with stolen vehicle related responsibilities. If that enhancement unit were to be approved, the positions that are associated with this fiscal note would not be necessary.

This would reduce the fiscal note to three areas that would be required to carry out the provisions of this bill specifically. This would include some equipment related to VIN restoration, chemical and stamping kits, and funding for additional investigative travel as this is a statewide function. We would need to drive to rural areas. Additional training related to the specific marking of VIN parts and use of database information would also be needed. The fiscal note would be reduced to \$10,833 for 2008, \$4,570 for 2009, and \$9,140 for the future biennium.

Chair Atkinson:

Do we have anyone else who wants to testify on A.B. 141? I am sorry we have to move on and will not be taking any more testimony, unless the sponsor of the bill needs to come up and address anything before we close the hearing on this bill.

Assemblyman Horne:

As for their concerns, if they come and point them out to me, we will work with them. In one concern, the language on knowingly possessing that Mr. Sande referred to in paragraph 3, Section 7; I do not have a problem with that language. I do have concerns about having that standard as being the term knowingly. Knowing means it was intentionally done. That is not the standard. It should include knowing that it was done.

Assemblyman Claborn:

I like the word willfully better than knowingly. Would you take that into consideration?

Assemblyman Horne:

I will, in which area?

Assemblyman Claborn:

In the area that states they do not know that the part has been altered.

Assemblyman Horne:

I will insert that and read it through.

Assemblyman Claborn:

That is all I am asking, just consider it.

Assemblyman Cobb:

Did you have any comments on the other suggested amendment, line 39, eliminating the word "immediately" and changing it to "within a reasonable period of time?"

Assemblyman Horne:

Yes, and I was actually puzzled by that. For me, immediately means immediately. I can understand that you would not call 911 to report something like this. In the scenario that was given, nobody answered the phone; you call again later that day. I cannot see a prosecutor coming forward saying; "sorry you got in touch with us on Monday instead of Saturday." Even if it is posted that DMV and police investigative units are closed on weekends, and you discover the thefts on Saturday, you have immediately called when you make the phone call on Monday. It is a non-issue.

Chair Atkinson:

Mr. Cobb, does that answer your question?

Assemblyman Cobb:

Yes. Immediately and within a reasonable period of time are similar terms.

Assemblyman Horne:

No, they are not. If you say within a reasonable time, that is when you start getting into debates in court on what a reasonable amount of time is. As a defense attorney, if I have a client and I have to argue within a reasonable time, now I am going to start splitting hairs and days, et cetera. If I have immediately in here, I cannot make the argument that the DMV or law enforcement agency were closed. The counterargument is going to be did you make the call. We want to set a standard here about when you act. We all pay a cost for these auto part theft rings in our insurance premiums. We are one of the highest. We are just asking that those persons, particularly those who are legitimate dealers, pick up the phone and call. It is not a huge standard.

Chair Atkinson:

We are going to have to move on because we are going to lose our people in Las Vegas. I recognize that we have some areas in this bill that you will have to work out with some of the people. As chairman of this Committee, I would like to see this bill worked out so we can begin to tackle this issue in southern Nevada because there is a huge problem. I do not think this bill is intended to go after the reputable dealers and shops that are conducting business in an admirable manner. This is to help us apprehend the individuals Ms. Womack was talking about who are driving around in a trucks selling parts to shops, and knowingly committing crimes. To accomplish this, there is some room and maneuvering in this bill. I hope that you can get it worked out and bring it back when we are ready for it.

We will go ahead and close the hearing on A.B. 141, and I am going to open the hearing on Assembly Bill 154. Mr. Ferenbach and Ms. Goodman, please come

to the table. This is a transportation bill and has my name on it. I am not testifying, the two members in Las Vegas will be giving testimony for the bill. I am going to turn the meeting over to Vice Chairman Manendo to handle Assembly Bill 154. You can direct your questions, answers, and concerns to him.

Assembly Bill 154: Revises provisions governing transportation of pupils by private schools. (BDR 58-1190)

Cam Ferenbach, representing the Meadows School:

The Meadows School is a nonprofit, kindergarten through 12th grade school in Las Vegas. With me is Carolyn Goodman, the head of our school and the founder and leader of the school for over 23 years since the school was opened. Bernetta Stebritz, who is our office manager, will answer any technical questions you might have. We have had our buses running in Las Vegas for 23 years. Their primary role is moving school children to field trips, football games, or other academic events. Since we have the buses, we offer a service to the parents, for an additional fee, to pick up their children for school and return them home.

You may be aware that our school opened in the Summerlin location after operating a few years near the Meadows Mall. We were on the edge of town at the time, and the busing was used more for taking kids to and from school. Over the years, the town has moved toward the school and the parents have moved in closer, so our buses are not used as much. Right now we have 62 out of 750 students who ride the bus to and from school. We have been in full compliance with the Department of Transportation's requirements as far as the safety of the buses, the inspections, and the commercial drivers' licenses for all of our drivers.

Until last fall we have had absolutely no involvement with the Transportation Services Authority (TSA). We received an inquiry in October from the TSA. You have a copy of my memo ([Exhibit F](#)) explaining why we should not be regulated by the TSA. We might not be under the statute, but the simplest solution was a request, which is one paragraph in the bill, providing us with an exemption. We would like to suggest, since we are a nonprofit school, the exemption could specify transportation by a nonprofit, private school that would focus the exceptions and satisfy our concerns.

Assemblyman Atkinson:

Mr. Ferenbach, you are only adding to Section 1, line 23, which is the language you want in for the private school. All the other language stays the same, is that correct?

Cam Ferenbach:

That is correct. We would ask that nonprofit be inserted there, if there is some way to do that. It would read "The transportation by a nonprofit private school of persons or property in connection with the operation of the school or related school activities." This is all established language; it does not affect any safety concerns.

Assemblyman Atkinson:

If we change that to nonprofit, how much will it open to others? We are talking about a private, charter school; will this affect others, or just your school?

Cam Ferenbach:

As far as we know, we are the only private school that runs buses although we have not done a survey on it. The Las Vegas Day School is a for-profit school, that used to run buses, but we are not sure if they do now. Some of the preschools, which I think are all for-profit schools, also run buses.

Assemblyman Atkinson:

There are some people from the DMV who may be able to address that.

Assemblywoman Gerhardt:

I am concerned about the same thing. If we do add nonprofit, would that affect church groups? I am a little concerned about the safety factor if we make this all-encompassing.

Cam Ferenbach:

I am not trying to say all nonprofit organizations; I am saying nonprofit, private schools. The way it reads now, it would be exempting "...transportation by a private school, persons or property...." If you insert nonprofit, it would be "...the transportation by a nonprofit, private school..." and would not be regulated by the TSA. It would be an exception.

Vice Chair Manendo:

It would not be opened up to every nonprofit, just nonprofit, private schools?

Cam Ferenbach:

We are comfortable with private school, we just thought nonprofit, private school would be more specific. If the Committee feels it is appropriate, we are fine with that.

Vice Chair Manendo:

We will have our staff look at that language as well.

Assemblyman Hogan:

I was going to note that the language in the proposed bill is narrowed by the suggested change; that is, as written, it was any private school. Generally, if we are making an exception, it is our policy to keep it as narrow as it can be and still meet whatever the need is. My inclination would be that it is better in terms of a normal policy of restricting exceptions and exemptions. It is better to say nonprofit, private school than to say just private school, which is a larger universe, if I understand it correctly?

Cam Ferenbach:

Yes, Assemblyman, you are. As Ms. Goodman just mentioned to me, we have opted to be state licensed even though, technically, we might not or do not have to be. If you wanted to say state licensed, nonprofit school that would make it even narrower and we would have no problem with that.

Vice Chair Manendo:

We are looking at a memo ([Exhibit F](#)) that was sent to the Chairman on March 3, 2007, and it says that "we have never been sent an invoice from the TSA requiring payment of fees...." Today is the eighth, have you received one yet?

Cam Ferenbach:

No, we have seen nothing.

Assemblyman Goedhart:

In addition to the \$500 fee per bus, would there be anything else coming under the TSA regulation that would necessitate your doing something you are not doing currently?

Cam Ferenbach:

Not that we are aware of. As I said in my memo, I am not sure how they got that, but there may be regulations we could not find. When the inspector came out and met with Ms. Stebritz she had some issues not about the completeness of our filing, but where we kept things in our files. We tried to keep our records the way every regulatory body wants us to, but apparently, these were some other additional record keeping things that they would like to have seen.

Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles:

[Read from prepared text. ([Exhibit G](#))] Looking at the memo, the Meadows School states they operate 11 buses, maximum gross vehicle weight ranging from 14,000 to 26,000 pounds. Excluding those vehicles in the Motor Carrier

Division, we regulate, license, and apportion, all vehicles 26,001 pounds and above.

Assemblyman Atkinson:

I am a little bit alarmed. This is the first I have heard from the DMV at all on this bill. The DMV has been in this Committee quite frequently. For you to have written comments and not have talked to the Chairman before today, I think is a bit inappropriate. I see the TSA at the table, and I will say the same thing to you as well. I had the sponsors of this bill come to me days before today to see if there were concerns because they were willing to work out any concerns anyone had, as was I. To not get any of those concerns until now, I think is disrespectful. I would hope in the future that this does not happen again.

Vice Chair Manendo:

May we have your written comments for the record?

Edgar Roberts:

Yes.

Andy MacKay, Chairman, Transportation Services Authority:

I did sign in; I indicated I did not need to provide testimony.

Vice Chair Manendo:

You did not need to provide testimony?

Andy MacKay:

No. I was not anticipating a need to testify, but there are a couple of items regarding the memorandum addressed to Assemblyman Atkinson that I should address for the record.

Vice Chair Manendo:

When did you see this memorandum?

Andy MacKay:

Just now, and I notice there is a reference in the memorandum to a fee of \$500 per bus. As the memo indicates, in the review of relevant statutes there is nothing that authorizes us to charge \$500 per bus. I wanted to make sure the record clearly reflects that. I apologize if someone from the Authority indicated that we will charge \$500 per bus because we do not have the statutory authority to do so. Regarding receiving an invoice for payment of fees, there should not be an invoice generated from the TSA. This is all I have; it was a clarification issue. We are neutral with respect to this bill.

Assemblyman Cobb:

Is it your testimony that regulation by the TSA would not require any fee, collection, or anything like that from private schools?

Andy MacKay:

That is accurate. It is also accurate to say we certainly are not in the business of regulating school buses.

Assemblyman Cobb:

Maybe we should go back to the sponsors of the bill and see if they still feel there are costs to their being regulated by the TSA. That seems to be the major part of their understanding for creating this bill.

Assemblyman Atkinson:

You said the TSA does not have a mandatory fee? I do not know where they are getting the \$500 figure from.

Andy MacKay:

I do not know about the \$500 per bus. I cannot say with respect to individual vehicle fees, but the highest we charge is for charter limousines at \$150 per vehicle. I am confused as to where the \$500 per bus fee came from.

Assemblyman Atkinson:

Mr. MacKay, when you get back, if you could make sure and let me know so I can let Mr. Ferenbach know for sure.

Andy MacKay:

I will do that and follow up with the Committee. Would you like the whole list of statutory authorization of what we charge per vehicle, from limousines all the way down to taxi cabs?

Assemblyman Atkinson:

That would probably be helpful for the entire Committee in case some of these issues come up in the future. Is that the reason the school has not received an invoice from TSA? Mr. Ferenbach said they had not received an invoice from the TSA.

Andy MacKay:

Yes, that would be the reason.

Assemblyman Goicoechea:

As we read the second page of the memo it talks about charging students to pick them up and take them home. Is that probably where the misunderstanding is? Is that an accurate assessment?

Andy MacKay:

As far as charging for transportation, I do not know the particulars. If they do charge the students in order to get from point A to point B within the State of Nevada, they would fall under the jurisdiction of the TSA. However, *Nevada Administrative Code* 706.147 is commonly known as the free shuttle provision, and covers those who are exempt from all statutes and regulations of the TSA. With respect to what is in bold ([Exhibit F](#)), what price staff indicated to the individuals was, if there are no fees charged, then the school is not under our jurisdiction. Does that answer your question?

Assemblyman Goicoechea:

Yes, as I read it they are charging, and TSA told them if they stop charging, they will not be regulated?

Andy MacKay:

That is accurate.

Assemblyman Goicoechea:

Then I assume the school probably would like to continue to charge to defray those costs?

Andy MacKay:

It is a business decision that they can make if they want to charge them. The statutes are clear in terms of what the free shuttle regulation is.

Assemblyman Goedhart:

When we talk about the \$500, you did not have statutory authority to collect that; and the most you charge is \$150 a year for a limousine service. Are you taking exception to the fact that there would be any charges levied on these buses, or just that the amount of the charge does not seem to be accurate?

Andy MacKay:

It does not seem accurate, but if it is an intrastate charter, then there are no fees charged. I do not think that this is an intrastate bus authority. I would have to look in terms of what authority this would fall under. Our function is based upon the size of the vehicles in terms of passengers. If I knew those capacities, maybe I could provide you with a better answer. Assuming the

buses are 16 passengers or more, including the driver, that falls under charter authority and there are no individual vehicle fees charged.

Assemblyman Goedhart:

In addition to those fees, would there be any other onus upon them if they were under your authority?

Andy MacKay:

Let's assume that they are intrastate charter buses. The only thing that concerns the TSA is safety and insurance. Are the vehicles being inspected and properly insured? Are there proper driver qualifications files and are the drivers, in fact, authorized to operate those vehicles? Regarding physical inspections and in terms of the annual inspections, they are intensive. We do not perform those inspections. We generally leave those up to individual companies. We do not have the personnel to do the annual inspections. If we did any inspection it would be a spot check.

Assemblyman Goedhart:

It becomes more or less a matter of some paperwork review, making sure the drivers are properly licensed and insured.

Andy MacKay:

Correct.

Assemblyman Goicoechea:

What I am hearing you say is as long as they charge a fee, they will be under your regulation, and therefore, would be subject to at least some fees as it pertains to this bill?

Andy MacKay:

Yes. It is accurate to say the TSA has no intention of getting in the way of the Meadows School operations. The statute is clear. If there is a rate charge, they do fall underneath our jurisdiction.

Vice Chair Manendo:

Do you have something add, Cam?

Cam Ferenbach:

I did not give the details of our 11 buses. Eight of them are registered with the DMV, much like regular cars, and we have inspections here. We do have three buses that have a Nevada International Registration Plan (IRP) registration, which we are doing now. We do not want to get out of paying the IRP. We realize that is our obligation. I do note, however, our combined gross vehicle weight is 26,000 pounds. I heard the DMV gentlemen say we had to be 26,001 or more, so I do not know why we have been paying this for these years. If it is appropriate for us to pay it, then we will pay it. If there is a way to draft this bill to relieve us from another regulation on a very ancillary part of our operation, we would still be willing to pay, of course, anything appropriate. We would appreciate an appropriate bill.

Assemblyman Manendo:

I will close the hearing on A.B. 154. Is there any public comment from Carson City or Las Vegas? [There were none. Meeting adjourned at 3:17 p.m.]

RESPECTFULLY SUBMITTED:

Christine Henricksen
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: March 8, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 141	C	Robert Roshak, Las Vegas Metro	Amendment
A.B. 141	D	Dick Mills, Owner	Handout
A.B. 141	E	Dick Mills, Owner	VIN Number from auto
A.B. 154	F	Cam Ferenbach, Meadows School	Memorandum
A.B. 154	G	Edgar Roberts, DMV	Written text