

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

**Seventy-Fourth Session  
March 15, 2007**

The Committee on Transportation was called to order by Chair Kelvin Atkinson at 1:35 p.m., on Thursday, March 15, 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/](http://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](mailto: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:**

Assemblywoman Ellen Koivisto, Assembly District No. 14

**STAFF MEMBERS PRESENT:**

Marjorie Paslov Thomas, Committee Policy Analyst  
Kelly Troescher, Committee Secretary  
Matt Mowbray, Committee Assistant



**OTHERS PRESENT:**

Michael Geeser, Media/Government Relations, American Automobile Association (AAA) Nevada, California State Automobile Association

Brian O'Callaghan, Detective, Las Vegas Metropolitan Police Department

Erin Breen, Director of UNLV (University of Nevada, Las Vegas) Safe Community Partnership, Transportation Research Center, College of Engineering

Charlene Gumber, representing Look Out Kids About

Don Gustavson, Assembly Member from 72nd Legislative Session

Sergeant Bob Roshak, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department

David K. Schumann, Vice Chairman, The Nevada Committee For Full Statehood

Keith Duffy, Group Loss Control Manager, Enterprise Rent-A-Car

A.R. Fairman, Nevada Transportation Coalition

Ronald S. Levine, Director of Government Affairs, Nevada Motor Transport Association

Cotter Conway, Washoe County Public Defender's Office, Reno, Nevada

Joseph Turco, Public Advocate, Reno office, American Civil Liberties Union (ACLU) of Nevada

Lieutenant William A. Bainter, Nevada Highway Patrol

Gary Wolff, Business Agent, Nevada State Law Enforcement Officer's Association

**Chair Atkinson:**

Please mark the other members present when they arrive, as Ms. Gerhardt is on her way. I would like to welcome those in the audience, those in Las Vegas, and those who are listening on the Internet.

Today we have three bills before us, but I would like to take one of the bills out of order. Assembly Bill 164 is Assemblywoman Weber's bill. After looking into the bill further, we have determined that it would be better to have this bill heard in a different committee. We will now take an action to rerefer Assembly Bill 164 from Transportation to Judiciary.

**Assembly Bill 164: Makes various changes to certain provisions pertaining to persons who are released from incarceration. (BDR 43-285)**

ASSEMBLYMAN CLABORN MOVED TO REREFER  
ASSEMBLY BILL 164 TO THE JUDICIARY COMMITTEE.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Atkinson:**

Our second bill will be Assembly Bill 124. This is our Vice Chair's bill.

**Assembly Bill 124: Prohibits minors from using cellular telephones while operating motor vehicles. (BDR 43-59)**

**Assemblyman Mark Manendo, Assembly District No. 18:**

We have a proposed amendment Research drafted for us ([Exhibit C](#)) that I want you to look at before I start my testimony. This is the story on the beach ball: We have nice weather right now, in Las Vegas, but here too. I was thinking back; we were all in a situation where we each were able to have a beach ball. I will get back to this in a minute. [Assemblyman Manendo then read from prepared text ([Exhibit D](#)).]

Also, I have some information that I want to share. I was talking about Clark and Washoe Counties, as well as statewide, when young people take the Knowledge Written Test and the Skills Driving Test. In 2005, on the Knowledge Test, the pass rate was not even 59 percent. The Skills Test was about 65 percent. Washoe County's Knowledge Test had a pass rate of 61 percent, and the Skills Test was better at 73 percent. Statewide, in 2005, the Knowledge Test was under 60 percent, and the Skills Test was under 70 percent. We have young people that have failed to pass the driving test. Eventually, they pass and get behind the wheel of a deadly weapon.

It is a privilege to drive a car; it is not a right. Young people have deadly weapons that they are responsible for, and they are on their cell phones. That should scare each and every one of us. They do not have the experience that folks like yourselves do. That is why I would put my life in your hands, rather than in those of a 16-year-old. I am not criticizing; it takes years to learn. Even after many years, your reaction time is off. You could be ill; there are a lot of different distractions. The point I am trying to make is if we could get rid of one of those distractions, our roads would be safer.

There are four states—California, Connecticut, New York, and New Jersey, plus the District of Columbia—which have enacted jurisdictional bans on driving while talking on a hand-held cell phone. Thirteen states—Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Minnesota, New Jersey, North

Carolina, Rhode Island, Tennessee, Texas, and West Virginia, plus the District of Columbia—restrict the use of cell phones by young drivers. We are not the first. I think each and every state has had legislation, at some point, dealing with this particular issue. All of the states with cell phone bans have primary enforcement laws, as you can see by the proposed amendment. After talking with some of you and our colleagues, a better step would be to start with a secondary offense rather than a primary offense. There are folks who had concerns with racial profiling, and some with concerns that people would be pulled over who are 21 or 25, but looked younger, and they would have to hassle with showing their identity. It would be a secondary offense, after a driver is pulled over for something else.

New Jersey's ban is a secondary enforcement law for everyone except school bus drivers, those with learner's permits, and intermediate license holders. Colorado, Maryland, and West Virginia have secondary enforcement laws. Secondary enforcement laws are only enforcement of a driver who has been stopped for another infraction. I am not married to this particular language in the bill; that is why we decided to do a mock-up. But we should have the debate on where, exactly, we should go with this piece of legislation.

I read this particular part regarding school bus drivers in one of the states. I had not thought of that. School bus drivers, while transporting kids, are on the phone. I know that is not what this bill is about because this bill deals with juveniles, but it is something else we should start thinking about. I do not think we have a statute dealing with that, either. Think about the responsibility that a school bus driver has. If that bus is loaded, and the driver is on a cell phone, that is something else for discussion.

Quite a few people contacted me who wanted to include this for everybody. We felt that starting with A.B. 124 was a good first step because juveniles are treated differently in society. If you are under 18, you cannot vote, and you cannot serve on jury duty. We have different laws dealing with graduated driver's licenses. We have proven statistics that young folks are very distracted nowadays. Then there is absolute peer pressure for kids to have cell phones. When that phone rings, there is pressure to answer it. When that text message comes, there is pressure to respond to that text message. The driver is going 65 miles an hour down the highway, and doing one of these things. If that does not scare you, it should. A young driver does not have the experience that you do.

Mr. Chair, I know that there are others who wish to testify, and I know there have been some handouts. I do not know who exactly will speak from Carson City, but there are handouts for the record. The reason I brought this prop [beach ball] up is that I read in the paper about a family who had a loved one

that they lost. They were not paying attention to what they were doing, and their little girl was killed. A few years later, they finally got to the point where they wanted to do something with her things, and they started going through their garage. They decided to donate her bike to someone who could use it, and they also went through playground things and clothes, and donated those. They came across a ball similar to this. They were going to toss it; it was old. They looked at each other and realized that the breath of their daughter was in that ball, and they could not throw that away. Stories like that really make you think about things like a beach ball. That was all they had left of their loved one.

Assembly Bill 124 is going to save lives, I am convinced of that. I think that if the Legislature enacts this law, and the Governor signs it into law, you will see lives saved. That is a good day when we save lives.

**Chair Atkinson:**

Thank you, Mr. Manendo. We have a few people with questions, and I have one or two myself. If you're amenable to that, we will open questions.

**Assemblywoman Gerhardt:**

To Assemblyman Manendo, I am very glad you are bringing forth this legislation. I would like to see the bill be successful. I am a little concerned about Section 1, page 2, line 7. I think it might be subjective to a 16-year-old. An emergency for them might be that they are late for an orthodontist appointment. Has anybody approached you about that issue?

**Assemblyman Manendo:**

Yes. We wanted to make sure that if there was an emergency situation—I think a 911 call would be an emergency—that it is absolutely appropriate for the driver to pull over and dial 911. If they are being stalked or followed, or in a situation where they need to call the police, that would be absolutely acceptable. If we need to be more specific, that is a great suggestion, but that is the intent.

**Assemblywoman Gerhardt:**

If we could look at some other language that might address that concern ...

**Chair Atkinson:**

On that same subject, who is going to determine an emergency? I had the same question before Ms. Gerhardt asked it.

**Assemblyman Manendo:**

I assume that, if there were a situation where our youth was speeding and was pulled over while using a cell phone, the officer would say, "I am going to cite

you for speeding and also for the cell phone" and the youth would reply, "I was just calling you folks on the phone because there was an emergency" ... I am sure there is someone from law enforcement who could better answer that. It might be the officer's discretion to say, "okay". When you dial 911 on your cell phone it stays there, so you are stuck. I think [law enforcement] can very easily look at that phone. If someone dials as he is pulled over, the officer could determine that it was dialed 10 seconds before he pulled him over, or [the youth could say] "I was on the phone with 911 for the last 30 minutes because somebody was following me, and you pulled me over for speeding."

**Chair Atkinson:**

We need to [ask law enforcement]. Maybe I am not reading it right because I am not taking for granted that you are talking about a 911 call. An emergency from a teenager could be to a parent or someone else. We need to define it.

**Assemblyman Manendo:**

I would love to have your suggestions on that, Mr. Chair.

**Assemblyman Goicoechea:**

Mark [Manendo], this pertains to whether it is a primary or secondary offense. I think either way, it is going to be extremely difficult to enforce. Where it is not a primary, I guess the only way you are going to be able to issue the citation is after a crash, right?

**Assemblyman Manendo:**

It depends. I think it will be such an educational thing that eventually teens are going to know that they cannot do it. A lot of times, they do not distinguish between a primary and a secondary, they just know it is against the law. They cannot do this; they had better not do this. I am hoping that is what will happen, but maybe we need to go back to the original version. I was trying to be amenable to concerns from members. If they want to make it a secondary, I would work with them. It does not have to be this language, but that was the intent, Mr. Goicoechea. In the long run, it would be such an educational tool that, hopefully, there would be no crash. If an officer pulls that person over, and it is a secondary, he would have to have a different moving violation prior to that. We hope it will not be that he ran into someone, as in some of the data I read to you about being four times more likely to cause property damage.

**Assemblyman Goicoechea:**

It would be interesting to see what [the Nevada Department of] Public Safety has to say about the law. I would like to see what their opinions are.

**Assemblywoman Gerhardt:**

I apologize for being late, so maybe you answered this question earlier. I know this is being used in other states. Did you have any information on that, and how successful those laws are?

**Assemblyman Manendo:**

Thirteen states, and the District of Columbia have a restricted use of cell phones by young drivers. We are not paving the way. They all have had their debates.

**Chair Atkinson:**

My last question, Mr. Manendo: did you mention text messaging earlier? Since the bill does not address that, do you think those 18 and under will resort to using their text messaging more while they drive? I do have that concern, because I have been guilty of that from time to time.

**Assemblyman Manendo:**

[The bill] says "any other means of communication." I think similar means of communication would include text messaging, but we can better define that. It is just as much, or maybe even more of a distraction, than actually talking on the cell phone. I did not realize that until I saw a video; I wanted to bring it, but it is too long. The time it takes you to turn around due to the distraction of your kids, or opening up a CD and putting it in, is five, six, or seven seconds. If you are going 45 miles per hour, in four to six seconds you have gone the length of a football field, or sometimes three times over. That is a lot of ground to cover without looking at the road. It is scary.

I am not saying that we are all perfectionists because we are over 18, but that is why we are targeting these young folks. This is going to be educational for our young people because I think they are going to learn to be better drivers than we are. But then, we did not learn to drive with all these distractions. When I learned how to drive, we did not have cell phones. Mr. Chair, whatever you think; if we need to tighten that up, I agree with you. I think we need to include that, as well.

**Chair Atkinson:**

I do have that concern. I envision the kid trying to hide it from the police or anybody else, and trying to text message under the visible points of a car to get messages through. They will do it; I think we all know that they will. If they can find a way to get around a law to correspond with friends, they will. We can definitely try to fix that.

**Assemblywoman Womack:**

Mr. Manendo, as a grandmother of two teenage granddaughters who are driving, I thank you for bringing this bill forward. I have seen them both driving

and talking on the phone. How has the Nevada Department of Motor Vehicles (DMV) accepted this? Have you talked with them regarding the education portion, including it in the manual one has to study in order to pass the exam? We have talked about the exam earlier.

**Assemblyman Manendo:**

No, I have not talked with DMV about including any of this information into the DMV manual. I was referring to the current skills and written tests, that they are not doing such a hot job at now. Part of my testimony is to make the debate that we have a long way to go and a lot of work to do for public safety in this State. Before young drivers are even behind the wheel, in passing that written test, they are having trouble. I think that this legislation, if passed into law, should be included in some type of information from the DMV, and into the high schools as well.

**Assemblywoman Womack:**

I think so, too. I think more information needs to get out.

**Assemblyman Goedhart:**

People actually have DVD players on their dashboards. They are watching these as they are going down the road. Now they are not only talking on their telephones, they are also watching the latest movies. I do not know if you have had any experience seeing drivers watch movies while going down the road, but that is really scary.

**Assemblyman Manendo:**

I agree.

**Chair Atkinson:**

Thank you, Mr. Goedhart, but that is already illegal. It is illegal for the front, but not for the rear. [He asked for questions; there were none.] Mr. Manendo, I know there are quite a few people signed in. Do you want them to go in a certain order?

**Assemblyman Manendo:**

It is at your pleasure, sir.

**Chair Atkinson:**

We do have a few people signed in to speak on the bill. We will go with those speaking for the bill first, and I will call them up in groups of three. Mr. Geeser, you are the only one to speak for the bill. A few people signed in for the bill, but did not indicate that they wanted to speak. If you do want to speak, we ask you to come up at this time. Mr. Geeser will go first, since he signed in to speak.



**Michael Geeser, Media/Government Relations, AAA (American Automobile Association) Nevada, California State Automobile Association:**

Yes, yes, and yes to all of the statistics cited by Assemblyman Manendo. Those are the same numbers and statistics that we get in the insurance industry. There is no need to recite those, except to let you know that, to us, those appear to be accurate and the same numbers that we are reading. I have handed in a letter of support ([Exhibit E](#)) which states our position on this bill, a bill that we think is in line with the goal and spirit of the graduated driver's license law that was passed in the 2005 Session.

We are trying to educate teen drivers on the right way to handle a car on the road. Allowing them to speak on a cell phone, or text message, or do whatever type of communication that teens do now in a car, is not the right way to teach them. We fully support the bill.

This is the first time I have seen the amendment on making it a secondary offense, and I would need someone to clarify for me how that would play out. I envision a teenager on a phone being pulled over for another offense. If it were up to me, I would get off the phone before the officer approached me, in which case there is no offense for being on the phone. I am not clear on how a secondary offense works for this bill, but I would like someone to help me out with that. Having asked for an explanation on the amendment, we fully support this bill.

We think it is important, and it is exactly what Assemblyman Manendo pointed to. The inexperience of a teen driver is what we are talking about here. When you are on a cell phone or texting a friend, it is that intellectual distraction while you are in a car that takes your focus off the road and off other drivers around you. That problem, as Assemblyman Manendo pointed out, is absolutely critical, so we ask you to support the bill.

**Chair Atkinson:**

Someone from law enforcement would be able to explain that, but I assume it works the same way with the secondary offense regarding a seat belt. If you do not have it on, and you are trying to sneak it on, you are going to get caught. If a police officer sees that you are on a cell phone, you cannot just drop the phone to the floor. If you retrieve a phone, you can see from almost any cell phone the time someone was on the phone.

At this time, I want to recognize two former Assembly members who have joined us. Assemblywoman Angle is in our audience today, and I served a term with Assemblyman Gustavson on this Committee. Welcome to our Committee, and welcome back to this House. Mr. Geeser, do you have anything else?

**Michael Geeser:**

Mr. Chairman, if that scenario that you just ran through is fair, according to law enforcement, then that satisfies the explanation. But just reading it, I was not clear on that.

**Brian O'Callaghan, Detective, Las Vegas Metropolitan Police Department:**

As it was originally written, we did not support it, but with the amendment, we do support the bill.

**Assemblyman Goicoechea:**

Why is there opposition to the original form? Was it the primary offense?

**Brian O'Callaghan:**

That is correct. We did not think it would be fairly enforced. We understand that people look young, and it would not be fair to stop somebody [for that reason].

**Chair Atkinson:**

That is all I have here in Carson City to speak on Assembly Bill 124. Are there any others we may have missed? Seeing none, we will go to Las Vegas. I have two people who have signed to speak for the bill in Las Vegas, Ms. Breen and Charlene Gumber. They are both at the table. Please state your name for the record, because it is difficult in Carson City to know who is speaking.

**Erin Breen, Director of UNLV (University of Nevada, Las Vegas) Safe Community Partnership, Transportation Research Center, College of Engineering:**

I had a lot of testimony here today, but Assemblyman Manendo has covered most of what I was going to say to you very well. I am part of a coalition, and I run a program. Our mission is to reduce the burden of traffic crashes, injuries, and fatalities. We see Assembly Bill 124 as an important tool in saving lives in the State of Nevada. I was part of the fight for graduated driver's licensing, and I am proud to say that that law appears to be delivering the reduction in fatalities that we had hoped for.

This is a component that the National Highway Traffic Safety Administration considers missing from our graduated driver's licensing law. It is very important for us to have a complete law. Once we passed our graduated driver's license law, we were held up as the gold standard across the United States. This is the one piece of our law that is missing. We see this as a very important addition for saving lives.

Teenagers traditionally do things behind the wheel of a car that are not smart. The Insurance Institute for Highway Safety, National Traffic Safety Association (NTSA), and many other research initiatives have pointed to the dangers that

teens take behind the wheel. They place the blame squarely on the problem of multi-tasking. When they say multi-tasking, they do not mean driving and eating, or driving and texting, or driving and putting makeup on, or talking to the friend in the car. They mean the multi-tasking of actually driving, of being a novice driver and having to pay attention to all the components that go into being a safe driver. These include judging the cars around you, looking for bicyclists and pedestrians, and being in control behind the wheel of a car.

In today's society, when kids are talking about multi-tasking, they are talking about literally being behind the wheel of a car while texting a telephone, holding it up to their ears, trying to drive, and trying to do ten things at the same time. This is an important message to send to children as they learn how to drive, that driving takes your full concentration. I see this law as a necessity for the parental handbook. Responsible parents will be able to cite a law when they sit down and talk to their children about the things that they can and cannot do when they are on their own behind the wheel of a car.

Every parent should have a driving contract with his child that includes consequences for different driving behaviors. This would send a message that driving while having a cell phone in your possession, behind the wheel of a car, is something that there will be consequences for. I do not personally think that A.B. 124 goes far enough. I think it should be a complete ban on cell phones, both hand-held and hands-free.

This bill would open conversations with parents and teens, and send a message that driving and talking is a dangerous habit to get into. I think this would send a message to all drivers in the State of Nevada because we all, as we drive down the street, see far too many people doing things behind the wheel of a car that they should not be doing. Very often when someone is drifting into your lane, or doing something stupid, it is because he has a cell phone in his hand.

I would also like to say that our organization, along with the support of the Nevada Office of Traffic Safety, would make sure that education to let teenagers and their parents know about this new law going into effect would go out to all of the high schools in the State of Nevada. I thank you for your time today, and I urge you to support A.B. 124.

**Charlene Gumber, representing Look Out Kids About:**

Look Out Kids About is in support of A.B. 124 ([Exhibit F](#)). We feel that this bill would improve safety in high schools and school zones that teenagers may pass through on their way home, to work, et cetera. The targeted group in this bill is inexperienced drivers. We feel that this bill would eliminate an added distraction and would also serve to teach these drivers about cell phone safety. We are all guilty of it at one time or another, but we would like to see parents and law

enforcement given another tool to eliminate a distraction that, in this case, is clearly unnecessary. Thank you, and I hope you will support this bill.

**Chair Atkinson:**

Are there any questions from the Committee members? Seeing none, I want to thank you for attending the meeting. Are there any others in Las Vegas who would like to speak for Assembly Bill 124? I don't see anyone, so we will now go to the individuals who have checked in against A.B. 124. No one has checked to speak against; I do not know if anyone meant to, but is there anyone in the audience here in Carson City who would like to speak against A.B. 124? How about in Las Vegas? Would anyone in the audience like to speak neutrally for Assembly Bill 124? Mr. Gustavson, did you sign in, sir? [Mr. Gustavson did not sign in, nor did he introduce himself.]

**Don Gustavson, Assembly Member from 72nd Legislative Session:**

I am in a neutral position on the bill because I understand the situational problem with people using cell phones while they are driving, whether it is a teenager or an adult. I see this bill as targeting teenagers, which is the first step to prohibit teenagers from driving. The next step is to outlaw, or make it illegal, for adults or anybody to use cell phones. As law enforcement in this room right now knows, this bill obviously would not apply to them. They have to use cell phones while they are driving. Truck drivers use cell phones all the time.

I have been driving since before many of you were born, and I have been talking either on my CB (Citizen's Band) radio or telephones since I have been driving for almost 50 years. This issue has to do more with individual responsibility. We are trying to take away the right of a responsible person, whether it is a teenager or an adult, to be able to use the cell phone or citizen's band radio because of the few who are very irresponsible. I have over a million miles of professional driving, and what I have seen on the road, I would not want to tell you about here. There are so many people that are just irresponsible.

It is not just talking on a cell phone; it is putting CD's in, or reaching over to get a CD. It is not about talking just on a cell phone; it is about people who are talking to passengers in the vehicle. We already have a law that states if anything affects your driving, whatever it may be, we should not be driving irresponsibly, regardless of what it is. We should be paying attention to that road. I prefer the graduated driver's license, and I think it should be mandatory to have a defensive driving course before anyone gets a driver's license.

I wanted to get the point across that we are taking away the rights of every individual, teenager or adult. Eventually, it will affect them if we pass this bill heard today. I realize it is a serious problem about teenagers driving. I know

when I first learned to drive, we did not pay attention. Our minds were a million miles away when they should have been on the driving. That is where we need to concentrate, to teach individual responsibility and how to drive properly to teenagers.

[([Exhibit G](#)) was also provided to Committee members, but was not referred to.]

**Chair Atkinson:**

That is all I have for the individuals who have checked in to speak on Assembly Bill 124. Are there any others who meant to sign in, who would like the opportunity to speak on this bill? Seeing none, we will close the hearing on Assembly Bill 124 and open the hearing on Assembly Bill 240. Assemblywoman Koivisto, we would like to welcome you to our Committee and give you the opportunity to address your bill.

**Assembly Bill 240: Provides for the impoundment of motor vehicles in certain situations. (BDR 43-973)**

**Assemblywoman Ellen Koivisto, Assembly District No. 14:**

You should be getting a copy of a mock-up that I did ([Exhibit H](#)), and if you look at page 2, that is where I made a change to Assembly Bill 240. The change that I did is in green.

In Clark County, we have a real problem with uninsured drivers. Over the years, I have had many constituents come to me and say, "What can we do? We have to do something about uninsured drivers." People get hit by an uninsured driver and they have no recourse. The person gets back in his car and drives away, still uninsured. That was the impetus for putting forth this bill.

I met with police officers, and they had concerns that simply not having a driver's license would also be cause to have the car impounded and towed. I had to agree with them that this was a little excessive. If you look on page 2 of the bill, starting on line 4, the language that I added says that if the peace officer or deputy of the department is unable to ascertain that the driver holds a valid driver's license in this state or in any other jurisdiction, only then would he impound or tow the car. The police felt that they are able to check and find out if people do have a driver's license here or somewhere else. That was the major change. If anyone has any questions, I am happy to answer them.

**Assemblyman Goicoechea:**

On line 8, where you put the amendment in, it said the police officer or deputy of the department "shall"; could we put "may" in there and give some discretion, given the great distances in some places in rural Nevada where this bill would apply? If you are 150 miles from the nearest tow truck or impound

yard, maybe that deputy or police officer would think [differently]. Under this, I do not think law enforcement would have any choice at that point.

**Assemblywoman Koivisto:**

You should have a copy of the amendment.

**Assemblyman Goicoechea:**

I do, and that is what I am talking about. Let us go to the insurance section, because I do not see the same flexibility there.

**Assemblywoman Koivisto:**

I do not think there should be flexibility in the insurance area. If you are driving without insurance, you can cause a problem for any other person on the road. The rest of us are paying high insurance rates because we are subsidizing the folks who drive without insurance.

**Assemblyman Goicoechea:**

This says "evidence of insurance", so it might be insured, and your insurance card is out of date or not in the vehicle, and you can definitely prove that. Again, if you are going to end up with a \$400 tow bill and an impound fee because you did not have the proof of insurance in your vehicle even though it was insured—that is where I am coming from. I am looking for some flexibility in the true rural areas.

If you get stopped between here and Ely, or Fallon and Ely, there is no impound yard except on either end, and no tow trucks. You are looking at a healthy tow bill just for not having proof of insurance in your vehicle. Bill [in the seating area] knows me, and he probably believes that my vehicle is insured, but if I did not have it to show him, under this law, he would not have the flexibility that the fine is reduced or taken away upon proof of insurance.

**Assemblywoman Koivisto:**

I guess in a case like that, where there is not an impound yard handy, I would be willing to give the flexibility to the peace officer. Maybe in that case, if the car is not towed or impounded, and the person is then found not to have insurance, their fine can be doubled or something like that.

**Assemblyman Goicoechea:**

I do not have a problem with that. I believe, Mrs. Koivisto, that there truly has to be a larger penalty when we do find out the car was uninsured. That is fine. But I think this is going to be cumbersome on the people in rural Nevada, and a number of us typically do not pack a wallet.

**Assemblywoman Koivisto:**

That is not the intent. We all have had, if not ourselves, members of our family or friends who have had experience with uninsured drivers. It ends up costing you. That is really what I am trying to get at with this.

**Assemblyman Goicoechea:**

And I truly believe in the intent. I think the intent would still be there, even if we gave the police officer or deputy the flexibility to go with the "may" or the "shall". If he pulls a guy over and clearly it is an old beater, and has three corners knocked off it already, and he does not have proof of insurance nor a driver's license in his possession, I do not care where you have to tow it, it should be towed. But if you are pulled over, I realize the officer can run your license number if he believes that is who you are, but if you do not have any identification at all, it looks like he would have to tow your vehicle. That could be extremely expensive in some regions of rural Nevada. I am asking you to consider it, please.

**Assemblyman Claborn:**

I do not have a question for Mrs. Koivisto, but I do have a comment. I am with Farmers Insurance, and when I pay my premium, I get back from the company how much liability, et cetera, that I have. Right on the envelope it says to keep this in your car or vehicle at all times, so we know if you do not have that insurance paper in your automobile at all times, you are breaking the law. That is the only comment I would like to make. You have to have that insurance paper in that automobile, so let us not forget the law here today.

**Chair Atkinson:**

Thank you, Mr. Claborn, for setting everybody straight. Are there any questions from any other Committee members? Mr. Cobb.

**Assemblyman Cobb:**

I do not know if this is better answered by someone else, but I am not familiar with how a law enforcement officer would be able to ascertain that the driver does hold a valid driver's license. Is that something through the computer system, and would that pertain to individuals who are from California, driving over for a ski weekend, and who leave their wallets in their hotel rooms?

**Assemblywoman Koivisto:**

My understanding is that yes, the officer can get on his radio and find out if you do have a driver's license, and in other states as well.

**Assemblyman Cobb:**

Would this be through the VIN (Vehicle Identification Number) of the car? Or would we rely on the veracity of the individual telling the police officer his true identity?

**Assemblywoman Koivisto:**

Probably a little bit of both. You would have a license number on the car, and it certainly would be registered to you, unless it is a rental car. There should be a record of the rental paperwork, and you could not rent it without a driver's license.

**Assemblyman Cobb:**

I am concerned about the individual who is in a hurry. Perhaps he has to take his kid to a doctor appointment, or something like that. He runs out to the car, and for some reason does not have the insurance in there. Maybe he switched it out and forgot to put the new insurance card in there, or left his wallet on the counter, and is taking his child to a doctor appointment. I am worried about the situation in which a person is going to be standing on the side of the road, or relying on someone to pick him up because he absent-mindedly forgot his license or insurance and is not able to verify it.

**Assemblywoman Koivisto:**

The amendment at the top of page 2, covers the thing with the driver's license. In the discussion with Mr. Goicoechea, I said I would be willing to leave it to the officer's discretion about the insurance. Sometimes Millie runs out of the house; she is rushing out to take John his lunch, and she could forget her purse. That is why that amendment is in there. I have done that.

**Assemblyman Cobb:**

I think we have all done that. You are satisfied that the discretion of the police officer would be enough to prevent those situations?

**Assemblywoman Koivisto:**

I think it would be. I think we see that our police are probably, in some cases, too nice to people.

**Chair Atkinson:**

I see that Mr. Roshak is here. I do not know if he will be able to provide any comments on how we would determine someone's license, even if someone, as Mr. Cobb said, is here in Nevada when he has his license in California. Are we able to find that out?



**Sergeant Bob Roshak, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

With regard to driver's licenses, we have the capability, by computer or radio, to check validity of driver's licenses in all 50 states. We can also run registration in a lot of states. The registration returns to law enforcement indicate whether or not there is insurance on the vehicle.

**Assemblyman Cobb:**

Are you satisfied that this language would require that the peace officer actually run someone's license? There is no discretion there that they can say, "You do not have your driver's license, and I cannot tell by talking to you that you have one; therefore, I am unable to ascertain it." As you read this language, does it suggest to you that the officer would have to run a computer check?

**Bob Roshak:**

Yes, that would be my belief; that the officer would have to check. I would assume that if the system were down, or he could not get it in a reasonable time, he would err on the side of caution and not arbitrarily take someone's car out from underneath them.

**Assemblyman Carpenter:**

You said you could get the registration, and it would tell you whether there was insurance or not. How fail-proof is that? Ninety percent of the vehicles that you would run a check on would be available to tell whether they had insurance or not?

**Bob Roshak:**

I know that some states do and some do not. I do not have the exact numbers for you. Also, that would depend on how current it is because people buy insurance and get their vehicle registration, and then it lapses. Whatever the down time is, I do not think I could determine some of those things.

**Assemblyman Carpenter:**

Does Nevada have that system?

**Bob Roshak:**

My understanding is that when we run a vehicle, it does come back with insurance information.

Mr. Chair, I need to correct myself. I have been advised by my colleagues that this does not occur for insurance verification.

**Chair Atkinson:**

If they run a check, it does not come back saying if they have insurance or not?

**Bob Roshak:**

Correct.

**Assemblyman Carpenter:**

The worry that I have is that you stop a person out in the middle of nowhere, and his car is towed and impounded. I do not know what it costs to tow a car today, but I imagine it is a fairly good amount. By the time you impound it, some of these people probably are not too flush. If we want them to get insurance after they have paid for the impoundment and the tow, they are not going to have anything left to get insurance with. We need to look at fines or something, rather than the impound. I think that is a hefty situation to put on some people.

**Assemblywoman Koivisto:**

One of the things we have seen in southern Nevada is that these folks will get stopped, and they do not get insurance. They do not pay a fine; they do nothing. If we do not hold a hammer over them, it is not going to happen.

**Assemblyman Carpenter:**

Could there not be something else; loss of their license, or something like that? It seems to me that impounding these vehicles, with the storage and everything, will put a lot of people behind the eight ball. They are not going to be able to get that vehicle to get to work. We all know that story.

**Assemblywoman Womack:**

Right before this session started in February, I had given my driver's license for identification. I realized on Friday that I had not received it back, and I was without a driver's license for the weekend. Of course, I was concerned driving without the license, even though the police officers could check that there was a valid driver's license, but I was appalled that when I went on the Department of Motor Vehicles (DMV) website, there was no way of entering into that website that I had a stolen or missing license. I had to wait until Monday to go down to the DMV to get a replacement.

Would it not help the police department, if we were able to find out our driver's license was stolen or missing, to be able to immediately report it via the DMV website?

**Bob Roshak:**

I would hesitate to answer that, and would respectfully request someone from the Department of Motor Vehicles handle that.

**Assemblywoman Womack:**

The question is not to the Department of Motor Vehicles. Would it be helpful to the police department if there was some way to report it immediately? It could be, when you check the driver's license, that you would be able to detect that the driver's license was stolen or missing. When I get a duplicate license, it must show up on your scope that a duplicate license has been issued, or does it not?

**Bob Roshak:**

I do not know if DMV returns for police indicate that it is a duplicate or not. It usually indicates a valid license and all the particulars.

**Assemblywoman Womack:**

So when we get a duplicate license, it shows a duplicate of our original license?

**Bob Roshak:**

That would be my understanding, yes.

**Assemblywoman Womack:**

That makes it even more alarming because it means I have a driver's license out there that was not returned to me, for whatever reason, or misplaced, and someone could use that driver's license.

**Bob Roshak:**

There is always that possibility.

**Assemblyman Goicoechea:**

I support the bill with the flexibility for the officer. I think it is a good tool at the point when the officer pulls somebody over, if the driver does not have a driver's license, or there is cause to believe he probably never had one, and/or insurance. I know Mrs. Koivisto feels in some cases that is too much flexibility for the officer, but I think we have to trust in our police officers. This bill does give the officer the ability to have that vehicle towed, at that point, which he does not have otherwise. It does remove the mandate from the bill. If we can put that flexibility in there, that does not mandate that they tow, but does give them the ability to tow at that point, I think it is good.

**Assemblywoman Koivisto:**

I agree with you. I want the police to have the ability to tow. I get very angry when people who should not be driving are driving, causing problems for the rest of us, who are paying for our insurance and keeping our driver's licenses current. I do not like the idea that I am paying a high insurance rate so that someone else does not have to pay his insurance.

**Assemblyman Goicoechea:**

I agree with you, but I know I have been guilty, a number of times, of being pulled over and asked for proof of insurance, only to find out it is not in the vehicle. It is sitting in a stack of mail someplace. It has never lapsed, but you might not have current proof of insurance. I would hope that, if I do not have the current one, I could show the officer five years' worth of proof of insurance, and maybe he would not tow the vehicle. Under the law, as written, he would not have any choice; he would have to tow. I would like to give him that flexibility.

**Chair Atkinson:**

Are there any other questions from the Committee members for Mrs. Koivisto? Seeing none, we have a few people who have signed in to speak for Assembly Bill 240. Assemblywoman, I am not sure if you have people that you would like to come up in a certain order. If you do, we can take them; if not, I can go down the list.

**Assemblywoman Koivisto:**

I will do it. I did hand out copies of emails that folks sent me ([Exhibit I](#)), supporting the legislation.

**Chair Atkinson:**

Thank you, Assemblywoman Koivisto. We are going to go now to the people who have signed in to speak for A.B. 240. There are quite a few, so please come up in groups of three.

**David K. Schumann, Vice Chairman, The Nevada Committee For Full Statehood:**

As you can tell by my white hair, I have been driving for a little over a half century, 52 years, and my father told me when I first started to drive that he kept his registration in his glove compartment. This was in Pennsylvania. He told me to do the same thing. Even 50 years ago, in Pennsylvania, we had evidence of insurance. For the last half century, I have kept my registration and proof of insurance in the glove compartment.

I have been guilty of not having my driver's license on occasion. I would like to see this tightened up to put registration on there. I have a friend here in Carson City who was hit by an illegal alien, who did not have registration nor did he have insurance. The guy who suffered from that was not the illegal alien; it was the guy who got hit. There were thousands of dollars [in damages], and there was no way to get anything back. I think giving patrol officers the ability to take these people off the road [is good], and it might help with the illegal alien thing, although I do not think that is the main purpose.

I have always carried my registration and insurance proof in the car. I would like to ask you to add "registration card" to this. [The man who hit my friend] turned out to be illegal, uninsured, and the guy who did the injury suffered no consequences whatsoever. They could not collect from him because he did not have any money. For those of us who have resources to buy an insurance policy, I think it is important that we have the proof of insurance in the vehicle, so the officers can check it.

I would hate to be towed to Hawthorne from Gabbs; it is a long way. The bill would be very heavy. On the other hand, these guys driving around without insurance are a huge liability to those of us who get hit by them because we are never going to get a dime, and our cars are totaled. I support this, and I would ask you please to add "registration" to it.

**Chair Atkinson:**

I want to say for the record that this is not an immigration bill. It is for anyone who is driving without insurance. Does anyone have any questions for Mr. Schumann? Is there anyone else who wants to speak in favor of Assembly Bill 240? Is there anyone in Las Vegas? We are going to lose video conferencing there in about 35 minutes, and I see two people in the room. Are you going to speak on this bill?

**Keith Duffy, Group Loss Control Manager, Enterprise Rent-A-Car:**

I deal with all the accidents and the risk for the State. I am sorry I did not have a chance to speak with the sponsor of this bill prior to this hearing today. My concern is that we have hundreds of vehicles out there, and we put the certificate of insurance in the vehicles every time they go out. You may have a renter who is in the car for a week or two; they need some scrap paper, and they pull it out and start writing on it and putting notes on it. If they get pulled over, there is no proof of insurance for that person.

I see customer situations in which we leave our customers, who fly in from different states, on the side of the road. The cost of getting all the impounds released could be substantial. We also have issues with getting proper notification from the tow companies that we have impounded vehicles. Those are concerns I have about this. Regarding reporting to get a vehicle from the tow companies, it may be two to three weeks sometimes, unless our customers tell us about it. They may be so mad, they fly out of town and do not tell us our car was impounded. Then we have a \$1000 or \$2000 impound bill. Is there some way to have a certificate? Every car rental company out there, that I know of, has certificates of proof of insurance, and they have to have those in order to be able to rent out vehicles. Is there a way to have an exception, or some way to make sure not all these customers' cars get impounded?

**Chair Atkinson:**

If Assemblywoman Koivisto does change that from "shall" to "may" in Section 2, subsection 3, then your concerns would be covered.

**Keith Duffy:**

That would be great. I understand; we do have a huge problem.

**Chair Atkinson:**

I did not say she was going to change it, I am just making sure ...

**Keith Duffy:**

I am just excited. I agree that we have major issues with uninsured people. We lost hundreds of thousands [of dollars] a year due to people not having insurance. It is costly, and it is a problem.

**Chair Atkinson:**

I believe the Assemblywoman is, again, still entertaining language for the bill. I know Mr. Goicoechea brought it up, and I am sure we will continue to work on it. We will keep you apprised. Are there any questions from the Committee members? Seeing none, thank you, sir, for waiting for your opportunity to speak. We are going to move back to Carson City. We have a few people who have signed in to speak against A.B. 240, and we are going to call them to the table now.

**A.R. Fairman, Nevada Transportation Coalition:**

We are concerned about commercial motor vehicles in this bill, because we have trucks and carriers from out of state that might not have their insurance cards or registration, or the driver's license might be lost, throughout the system. This is our concern. We were wondering if this is going to pertain to commercial motor vehicles?

**Chair Atkinson:**

I am confused. What do you mean, lost throughout the system?

**A. R. Fairman:**

Sometimes when the drivers come from out of state, their drivers' licenses are still in their offices or back at home. They have been out on the road for 30 or 90 days, and they have not gotten back to their offices or their operations [centers]. Their drivers' licenses, or insurance cards, have not caught up with them. That has happened many times.

**Chair Atkinson:**

That is another issue. Are there any questions from Committee members for Mr. Fairman on this issue? Seeing none, thank you, Mr. Fairman. Mr. Levine?

**Ronald S. Levine, Director of Government Affairs, Nevada Motor Transport Association:**

Under your pleasure, I am changing my "opposed" to "neutral". I will give the reasons later. I could either speak now, or ...

**Chair Atkinson:**

Go ahead and speak in neutral right now, if you want to do that.

**Ronald Levine:**

I just got a chance to see the amendment, so I have changed it to neutral. There are still a few concerns that we have. I spoke with Assemblywoman Koivisto, and we can work on it. Some of the issues are on commercial vehicles. There are not too many companies who do not have insurance while running commercial vehicles on the road. In my own private car, I know where my proof of insurance is, and I know where my driver's license is, unless I lost my wallet. A lot of companies might have two or three drivers who use the same vehicle each day, or they might even use the vehicle for a week. Some drivers will know where the proof of insurance is.

When I have asked drivers for their proof of insurance and registration, a lot of times they do not know where it is, or do not care. When you are towing a truck, the difference is that when they get the heavy duty tow started, you are looking at over \$300 approximately for the bill. Sometimes, there is another situation on what load the truck is actually carrying. You might have hazardous material, or you might have livestock. There are a lot of other situations, but I would like to work with the sponsor of the bill on this.

**Cotter Conway, Washoe County Public Defender's Office, Reno, Nevada:**

I voiced my concerns to the Assemblywoman in an email sent yesterday morning, and some of my concerns have been addressed. I am in favor of the bill with regard to the insurance. I certainly see the need to get uninsured vehicles off our roads. A truly uninsured vehicle should probably be towed, there should be no question about that.

My initial concerns with the insurance were that there was some investigation required by the officer before he made a decision to tow the vehicle. Now the bill's sponsor has added that same language for the driver's license situation, that the police have to conduct some investigation. I am in favor of that, as it addressed one of my concerns. My other concern was addressed by Assemblyman Goicoechea, concerning changing mandatory to discretionary. Especially with regard to a driver's license if you have an otherwise legal car, and there is a licensed passenger, should the officer not be able to release it to that individual? I think that flexibility needs to be left to the officers, so they can, based on the circumstance they find themselves in, take action.

That was my main concern. Towing is a huge expense, but if there is some other way to deal with it by taking the unlicensed driver off the road, I think the officer should have the discretion to do so.

**Joseph Turco, Public Advocate, Reno office, American Civil Liberties Union (ACLU) of Nevada:**

I will be brief. At first, it looked as though I would support the amendment issue. At the ACLU meeting, I was corrected. Any law enforcement officer will tell you that all cars which are seized and impounded are searched. It does not rise to the level of the Fourth Amendment, but it is bad policy. This is what I do want to testify about.

I am also the office manager at the ACLU, and I receive a good amount of phone calls. I could see getting this type of phone call at the ACLU—"my car is impounded!" They will think it is a civil rights violation. A lot of people think things are civil rights violations when they are not.

This is why it is bad policy. The roster of who voted for this will be public, and [voters] will make their decisions. It is a great hassle, Mr. Chair. Wherever you were going, your car is impounded and you are not getting there. It takes quite a bit of time and money. You all do what you feel is necessary. Thank you for the opportunity.

**Chair Atkinson:**

Are there any other members of the audience who would like to speak against [the bill]?

**Lieutenant William A. Bainter, Nevada Highway Patrol:**

The Highway Nevada Patrol opposes A.B. 240, and we would concur with the amendment that was suggested by Assemblyman Goicoechea.

**Chair Atkinson:**

So with the amendment, you would support it?

**Lieutenant William Bainter:**

That is correct.

**Chair Atkinson:**

Mr. Bainter, I am trying to find you. Did you sign in?

**Lieutenant William Bainter:**

No, I did not.



**Chair Atkinson:**

In the future, can we have you do that, please? Thank you. Are there any questions for Mr. Bainter? That is all I have to speak against. Are there any other members of the audience that would like to speak against this bill?

**Don Gustavson, Assembly Member from 72nd Legislative Session:**

I apologize for not signing in. I was not planning on testifying on this bill, but I wanted to make a point. I want to bring up an issue to clarify it. Your car is impounded, and the car is a legal vehicle. It is insured, but the driver did not have a driver's license. His wife does have a driver's license, and they have only one vehicle in that family. This is going to affect poor families more than anyone else because they might have only one vehicle. If your vehicle is impounded because one person does not have a driver's license, then the spouse would not have a vehicle to drive to and from work. It would be a real hardship.

I can support the bill with Assemblyman Goicoechea's amendment, but if it is a mandatory issue, it is something for Committee members to think about. We do not want to penalize the other person because the spouse or someone else borrowed the car. The driver might not have a driver's license, but this person did not know that. Think of all the unforeseen circumstances that might occur.

**Chair Atkinson:**

Are there any questions for Mr. Gustavson? Seeing none, thank you for your testimony. We moved from the "for" to the "against"; is there anyone in the audience who would like to speak in the neutral position on this bill?

**Gary Wolff, Business Agent, Nevada State Law Enforcement Officer's Association:**

They [Nevada State Law Enforcement Officer's Association] are concerned with the bill. I apologize to the author that we did not get to her before this. The problem we have is with the way it is originally written. I will give you a scenario because I did this job for 31 years.

If I am out in nowhere, I can wait for an hour and a half for a tow truck. I could get called to a serious accident while I am waiting for this. We do not want to see our officers get in trouble because they did not stay with a tow vehicle. You have to stay with the tow vehicle; you cannot leave people abandoned or stranded. If it is an officer discretion issue, over my career, I have let a lot of violators go because I was called to a more serious incident. If you are involved in a serious accident, and you are waiting for a first responder, that needs to be done. I think the author of the bill has now said it could be discretionary; if it is, you have to put trust in the officers out there.

**Chair Atkinson:**

Are there any more questions for Mr. Wolff? Seeing none, is there anyone else in the audience who wishes to speak on Assembly Bill 240? Seeing none, Assemblywoman Koivisto, did you have any closing remarks?

**Assemblywoman Koivisto:**

I think it is incumbent upon me to take the concerns of the professional police officers into account. I would love to change the "shall" to "may", and leave it to officer discretion.

**Chair Atkinson:**

I think with that said, we will have Marjorie Paslov Thomas work with you and see what language needs to be changed, so we can get it out of this Committee. We will put it on a work session soon.

**Assemblywoman Koivisto:**

Thank you, Mr. Chair. I believe the Highway Patrol officer had something he thought should be added or changed.

**Chair Atkinson:**

Thank you, Mrs. Koivisto, I think we got that. We will work on that too, and get it out. Are there any questions for Mrs. Koivisto before she leaves the table?

**Assemblyman Carpenter:**

Mr. Chair, do you think you could see your way clear to make it "may" in both instances where it is a driver's license? I am hearing out there in the boonies that a lot of times their [police] radios are not working. If they could use their discretion on the driver's license as well as the insurance ...

**Assemblywoman Koivisto:**

I think that is what we discussed. We need to make sure that our peace officers have the ability to have cars towed if they feel that they should be towed.

**Assemblyman Carpenter:**

I do not have any problem with that.

**Chair Atkinson:**

Are there any other questions for Assemblywoman Koivisto? We will get it cleaned up. We need to close the hearing on A.B. 240. Is there any new business from Committee members before we close? Is there any old business?

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Seeing none, we are going to close the hearing. We will see you next Tuesday.  
[The Chair adjourned the meeting at 3:19 p.m.]

RESPECTFULLY SUBMITTED:

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Kelly Troescher  
Recording Secretary

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Victoria Thompson  
Transcribing Secretary

APPROVED BY:

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Assemblyman Kelvin Atkinson, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Transportation

**Date:** March 15, 2007

**Time of Meeting:** 1:35 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 124	C	Assemblyman Manendo	Amendment
A.B. 124	D	Assemblyman Manendo	Prepared testimony.
A.B. 124	E	Michael Geeser/AAA (American Automobile Association) Nevada	Letter of support.
A.B. 124	F	Charlene Gumber/Look Out Kids About	Written testimony.
A.B. 124	G	Kate Diehl, Property Casualty Insurers Association of America	Letter of support.
A.B. 240	H	Assemblywoman Ellen Koivisto	Mock-up of A.B. 240 with amendment.
A.B. 240	I	Assemblywoman Ellen Koivisto	Copies of emails she received supporting this bill.