

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

**Seventy-fourth Session  
May 29, 2007**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 2:50 p.m. on Tuesday, May 29, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dennis Nolan, Chair  
Senator Joseph J. Heck, Vice Chair  
Senator Maurice E. Washington  
Senator Maggie Carlton  
Senator John J. Lee  
Senator Joyce Woodhouse

**COMMITTEE MEMBERS ABSENT:**

Senator Mark E. Amodei (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Barbara E. Buckley, Assembly District No. 8  
Assemblyman John C. Carpenter, Assembly District No. 33  
Assemblyman Pete Goicoechea, Assembly District No. 35  
Assemblyman John Ocegura, Assembly District No. 16

**STAFF MEMBERS PRESENT:**

Wendy Kameda, Assembly Leadership Attaché  
Nicholas Marquart, Intern to Senator Nolan  
Matt Szudajski, Committee Policy Analyst  
Sharon Wilkinson, Committee Counsel  
Lynette M. Johnson, Committee Secretary

**OTHERS PRESENT:**

Kathleen E. Delaney, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General  
Troy Dillard, Administrator, Compliance Enforcement Division, Department of Motor Vehicles  
James Campos, Commissioner, Consumer Affairs Division, Department of Business and Industry  
Mendy K. Elliott, Director, Department of Business and Industry  
Sharon Jackson, Deputy Chief Investigator, Consumer Affairs Division, Department of Business and Industry  
John P. Sande III, Nevada Franchised Auto Dealers Association  
Tracey A. Woods, Retail Association of Nevada  
Michael Spears, Nevada Collision Industry Association  
Robert J. McCleary, Nevada Collision Industry Association  
Wayne A. Frediani, Nevada Franchised Auto Dealers Association  
Jeanette K. Belz, Nevada Chapter Associated General Contractors  
Thomas A. Roberts, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association  
Kristin L. Erickson, Nevada District Attorneys Association  
Michael D. Geeser, AAA Nevada  
Jesse Wadhams, American Insurance Association  
Jim Spinello, Progressive Insurance  
Kenneth William Cooley, State Farm Insurance Company  
Doug Busselman, Nevada Farm Bureau  
Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles

CHAIR NOLAN:

We will consider two Senate bills previously heard in our subcommittee meeting. The first bill is Senate Bill (S.B.) 106.

**SENATE BILL 106 (3rd Reprint)**: Revises provisions concerning the release of certain confidential and restricted documents relating to potential acts of terrorism. (BDR 19-300)

SENATOR LEE MOVED TO CONCUR WITH AMENDMENT NO. 788 TO S.B. 106.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS AMODEI, CARLTON AND HECK WERE ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

The next bill we will consider is S.B. 450.

**SENATE BILL 450 (2nd Reprint)**: Makes various changes to provisions relating to the regulation of oversized and overweight vehicles. (BDR 43-1140)

SENATOR WASHINGTON MOVED TO CONCUR WITH AMENDMENT NO. 845 TO S.B. 450.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS AMODEI AND CARLTON WERE ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will open the discussion on S.B. 452.

**SENATE BILL 452 (2nd Reprint)**: Makes various changes to provisions governing the regulation of motor vehicle manufacturers, dealers, distributors, brokers, rebuilders and lessors. (BDR 43-644)

MATT SZUDAJSKI (Committee Policy Analyst):

Senate Bill 452 is a cleanup bill from the Department of Motor Vehicles (DMV). The Assembly adopted an amendment that made six changes. The first provision clarifies the Compliance Enforcement Division investigators may exercise their police powers to prevent acts of fraud or other abuses in connection with the services offered by the DMV. Secondly, the amendment modified the definition of "used vehicle" as, " ... a vehicle ... registered with the Department or with the appropriate agency of authority ... and if equipped with an odometer, registers more than 2,500 miles on the odometer; or regardless of

mileage, is at least 1 model year old, as determined by the vehicle manufacturer, and has been registered with the Department ... for 30 days or more, if no exemptions for registration exist ... ." Thirdly, the amendment provides conditions under which an automobile wrecker, operator of a salvage pool, garageman or owner of a body shop is unfit to hold the license of registration. Fourth, the amendment provides conditions under which a salvage vehicle is considered to be in its entirety as opposed to when it is considered to be in parts. Fifth, the amendment clarifies the transfer of ownership of a qualified junk vehicle by an automobile wrecker in the same manner as would value vehicles by endorsement of the space already provided on the reverse side of the junk certificate. If insufficient space exists on the reverse side of the junk certificate to transfer the vehicle in this manner, an automobile wrecker must, within ten days after purchase, apply to the DMV for a new junk certificate and surrender the original certificate. Lastly, the amendment provides that the DMV may enter into an agreement with any dealer, distributor, manufacturer or rebuilder who has been in business for five years or more and if his business has been conducted satisfactorily for the preceding five years, for an agreement to reduce the bond amount. However, no bond shall be reduced less than 50 percent of the bond requirement. Provisions one through five were offered by the DMV and the sixth provision was offered by Mr. Valentine during the hearing in the Assembly Committee on Transportation.

CHAIR NOLAN:

The DMV supports the proposed amendment.

SENATOR LEE MOVED TO CONCUR WITH AMENDMENT NO. 873 TO  
S.B. 452.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS AMODEI AND CARLTON WERE  
ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will open the hearing on Assembly Bill (A.B.) 393.

**ASSEMBLY BILL 393 (1st Reprint)**: Makes various changes relating to the repair of motor vehicles. (BDR 43-821)

WENDY KAMEDA (Assembly Leadership Attaché):

I will be presenting A.B. 393 for Assemblywoman Buckley. This bill addresses vehicle repairs. A 2005 survey reported that car repair complaints or rip-offs are the third most frequent complaint heard by state consumer protection administrators. We have a video of an investigatory sting conducted by the Bureau of Consumer Protection (BCP) in conjunction with the Consumer Affairs Division (CAD), Department of Business and Industry ([Exhibit C](#), original is on file in the Research Library). The auto repair facility was charging for services not performed. It was ingenious the way they hid the cameras and the other methods they incorporated in the sting operation.

Three different chapters in the *Nevada Revised Statutes* (NRS) address vehicle repairs. Chapter 487 addresses the repair, removal and disposal of vehicles and is under the DMV's jurisdiction. Chapter 598 addresses general deceptive trade practices and is under the jurisdiction of the CAD. Chapter 597 addresses miscellaneous trade regulations and prohibited acts. This chapter has overlapping jurisdiction between the DMV and the CAD. Because of this overlapping jurisdiction, the same consumer complaint regarding vehicle repairs could go to both agencies, and they could suffer delays in getting resolution. In addition, the business could have two separate investigations and potentially two separate fines, for a single incident. This bill attempts to rationalize that particular statutory scheme. It makes the DMV the entry point for a consumer complaint on car repairs. The DMV will receive the complaint, evaluate it, and if it deals with the statement of charges or written estimates, they will manage the complaint. The DMV is the proper agency to handle this type of complaint because they are the experts. If the complaint is about prohibitive trade practices, it will be sent to the CAD. One agency should be investigating the complaint.

Present law allows an auto repair facility, upon registration, to provide a \$5,000 bond, a cash deposit or agree to mandatory arbitration. This bill will change that to either a \$5,000 bond or a cash deposit, eliminating the arbitration. The DMV is a regulatory agency and they do not advocate on behalf of a consumer. They will review the complaint to see if the business is performing its obligations within the license requirements. If the complainant is not satisfied with the result of that investigation, they may go against the bond

to be reimbursed. Having a mandatory arbitration clause does not help the consumer if the business is no longer in operation.

The CAD will now have the authority to impose an administrative fine if they find a deceptive trade practice by an auto repair garage. They may also waive that fine in order for the consumer to get reimbursed. A \$7,500 revolving investigatory fund will be established and maintained by the BCP for the purpose of finding patterns and practices of deceptive behavior.

The final provision in the bill is tangentially related and deals with salvage title. Existing law is unclear as to whether a rebuilt salvaged vehicle must be disclosed as a salvaged vehicle.

KATHLEEN E. DELANEY (Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

I am one of the legal counsels on the case referenced in the video, [Exhibit C](#). We conducted that sting on a limited budget and it was successful beyond our expectations. We are excited about one component in the bill that will fund additional sting operations because we found that to be effective. We received several additional complaints on the business targeted in the video, [Exhibit C](#), as a result of that sting. This bill and the ability to fine-tune the mechanism by which car repair complaints are handled is good and we hope to have the Senate's support.

We will work closely with the CAD and the DMV to receive referrals for pattern and practices cases. I think this was one area Assemblywoman Buckley was concerned with and wanted addressed. She wanted a clear line of demarcation for the processing of consumer complaints. Also, she wants the agencies to recognize patterns and practices. We plan to work closely with both agencies on the details as to when the business should be referred to the BCP. We will then pursue civil action or an additional sting as needed to bring a case against a business.

This bill does not create many new provisions. It reshuffles existing provisions and the responsibility for those provisions. We strongly support this bill and the enhancements it provides for the car repair industry.

CHAIR NOLAN:

Is this particular franchise encouraging this behavior with its franchise owners?

MS. DELANEY:

Yes, we have alleged that this is a pattern or scheme conducted by related owners. The franchisees are working with the franchisor to carry out what appears to be a pattern and practice of charging for services not provided.

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

It does not take a lot of research to find the offenders. Agencies receive multiple complaints on them; they stand out. Usually they are not one-time offenders and those are the businesses we will refer to the BCP for their action. Ms. Kameda has done an admirable job of explaining the bill. Overall, the DMV is neutral on this bill. We have worked closely with Assemblywoman Buckley, the CAD, and the BCP to plan the implementation strategy should this bill become law.

We submitted a fiscal note. The bill was heard in the Assembly Committee on Ways and Means and the Senate Committee on Finance. The DMV's budget closed with the inclusion of the fiscal impact dependent upon the final outcome of this bill.

SENATOR HECK:

How was the decision made that the DMV would be the initial point of entry as opposed to the CAD? I think most people would go to the CAD first if they have an issue with a business.

MS. KAMEDA:

It was interesting. In discussions with the CAD, the DMV and the BCP we discovered that the CAD is currently using antiquated computer hardware and software. The software to run their database is from 1991. It does not allow the CAD to collect and collate the necessary information that would allow them to assess patterns and practices, whereas the DMV has a strong information technology (IT) system. It is our understanding that the CAD is trying to correct that matter; however, Assemblywoman Buckley believes actions need to be implemented now to address these offenders. These offenders stand out and continue until they are stopped. The prosecuting agency needs a good tracking system to collect evidence to build a case.

SENATOR HECK:

The DMV submitted a fiscal note to cover their expenses. The CAD should have submitted a fiscal note to upgrade their computer system. I do not see consumers going to the DMV when they have been scammed at an auto repair business.

MS. DELANEY:

The NRS 597 contains miscellaneous quasi-regulatory aspects and most consumers are not aware of those requirements. Those requirements will be shifting to the DMV. The DMV will be the complaint intake. Also, there is a perception that the agency that regulates the industry is in the best position to address complaints about that industry. The DMV is the regulator of this industry.

I agree that consumers will probably go to the CAD for deceptive trade practices. The CAD will process those complaints and they will refer complaints to the DMV when appropriate. The opposite will occur with the DMV. The feeling is that the DMV should initially receive the complaint since they are the regulator. The business is more likely to respond to its regulator, the agency that holds its license. The concession made by Assemblywoman Buckley ultimately serves everyone. Either way, consumers are going to be served.

SENATOR HECK:

You could argue it either way. Either one could be the entry point. In my mind, the CAD would seem to be the best place if they were given the proper equipment. I also have concerns with the same provision that appears twice in similar language in the bill. It appears on page 2, lines 38 to 39, and page 10, lines 38 to 41. The definition of "peace officer" includes a lot of people. To allow them, without cause, to walk in and demand to inspect books, files and any record at a place of business causes me concern.

MS. KAMEDA:

It is my understanding that this language has been transferred from NRS 597 into NRS 487. I believe this is existing law. Mr. Dillard will address your concern.

SENATOR WASHINGTON:

I have similar concerns as Senator Heck about the point of entry. I was reviewing the NRS 487.530. In 2001, the Legislature passed a bill regarding



garages and their operations to make sure they were licensed and bonded. We placed the onus or the point of entry with the CAD and now we are dividing services between the DMV and the CAD. If I remember correctly, when we were presented with that bill, there was not an entry point for consumer complaints and the CAD took on that responsibility. Why are we being asked to reconsider the actions of 2001?

MS. KAMEDA:

I will address Senator Heck's issue. We believe this might be new language. It was not part of our original intent. Therefore, Senator Heck, I believe Assemblywoman Buckley would be willing to address your concerns.

I will address Senator Washington's concern. As I recall, when Assemblywoman Buckley presented the bill in the Assembly, she said, "... ideally, there will be one agency to handle everything." In the ideal world, the same agency that regulates the industry should also handle consumer complaints about the industry. The regulation bifurcation by the DMV and the CAD exists for whatever reason. The purpose was to change the point of entry to the agency with the stronger IT system to capture patterns and practices. Also, the DMV has the expertise in regulatory issues, whereas, the CAD has expertise in unfair trade practices. Yes, the system is still bifurcated.

SENATOR WASHINGTON:

We have dealt with bifurcation in several areas. It has been the attempt of this Legislative body to eradicate the bifurcation because of duplication. Based on what I have read on this bill, there may be duplication. The CAD should have asked to upgrade their IT system and integrate with the DMV so that complaints could be handled appropriately. That way it is confined to one port of entry. As a consumer, if I had a justifiable complaint against a garage or an auto mechanic or a body shop, I would go through the CAD. I think the process should begin there as opposed to developing a new bill to address a problem.

MR. DILLARD:

The NRS 487.035 is a written estimate statute. It falls under the DMV's jurisdiction for garages, body shops and any business that works on an automobile. That business must provide a written estimate to the consumer. A similar law exists in NRS 597. One chapter requires the business to sign the estimate whereas the other chapter requires the customer to sign the estimate.

This causes confusion; therefore, whatever direction you choose, one agency should have responsibility for all of them.

SENATOR WASHINGTON:

I agree with you. We should fix the statutes to end the bifurcation.

Ms. KAMEDA:

The original bill did that, Senator Washington. It removed everything from the CAD and put it under the DMV's jurisdiction. However, Ms. Elliott, the new Director of the Department of Business and Industry, asked Assemblywoman Buckley to reconsider. Ms. Elliott explained that she was implementing processes and technologies to bring those divisions up to par. Assemblywoman Buckley agreed to allow Ms. Elliott the opportunity to upgrade her department. This amended bill is a result of that discussion.

SENATOR WASHINGTON:

I am confused. Did the original bill put the port of entry with the DMV? Did Assemblywoman Buckley amend her bill to give Ms. Elliott an opportunity to implement the necessary equipment?

Ms. KAMEDA:

The original bill moved the entire regulation of auto repair businesses to the DMV. Assemblywoman Buckley amended the bill in recognition that the DMV is a regulatory-focus agency and the CAD is a consumer-focus agency and to give Ms. Elliott an opportunity to upgrade her agency. This amended bill attempts to rationalize the system. The complaint starts at the DMV. It may remain there or it may be referred to the CAD, but one agency resolves the complaint. Also, this bill attempts to eliminate the NRS overlap. This matter will be revisited in two years.

SENATOR WASHINGTON:

I appreciate that and in the past we have given the DMV a similar opportunity. As the State moves forward and as we work with agencies it would be easier for me to understand or to know that if I have a consumer affairs problem, I should go to the consumer agency to address that problem. If I have a regulatory problem, then I should go to the regulating agency. I think we have this matter twisted and that we should fix the CAD so they can address the consumer issues. I am not opposed to the bill. I am concerned about the bifurcation.

CHAIR NOLAN:

Does the CAD provide consumer advocacy and information with regard to detection and protection from fraud? Are you providing consumers with protection information? Do you assist the BPC in the prosecution of these crimes?

JAMES CAMPOS (Commissioner, Consumer Affairs Division, Department of Business and Industry):

Senator Nolan, you are correct. We are doing a massive outreach and educational campaign to remedy this issue. In the past, this agency has experienced communication difficulties. Also, our computer system is extremely outdated. Our budget has been approved and we will upgrade our computer system.

MENDY K. ELLIOTT (Director, Department of Business and Industry):

We discussed the CAD deficiencies with Assemblywoman Buckley. First and foremost, I appreciate that Assemblywoman Buckley gave us the opportunity to make improvements before transferring everything to the DMV. As Mr. Campos mentioned, we have received approval for a new computer system. In addition, we have been conducting extensive training within the CAD to ensure the bad players are shut down. Mr. Campos has been working with local municipalities to create community awareness about the CAD. In fact, we are hopeful that the CAD will so busy that in two years, we will be requesting additional staff.

SENATOR WASHINGTON:

It is important that the consumers are protected. How soon do you think your IT system will be online?

MS. ELLIOTT:

I anticipate that the system will be ready in four to six months. We are ready to proceed as soon as we receive the money.

SENATOR WASHINGTON:

Are there any plans to integrate your system with the DMV?

MS. ELLIOTT:

That discussion has not taken place and we have not looked at the cost analysis. It certainly could be discussed in the future.

SHARON JACKSON (Deputy Chief Investigator, Consumer Affairs Division, Department of Business and Industry):

I will address the process between the CAD and the DMV. We have taken administrative actions against 25 different automobile garages within the last 4 years. Those did not receive the publicity that the sting operation received. We have processed approximately 1,100 complaints in the last 4 years. One of the issues is workmanship. We receive numerous complaints in this area. Workmanship is where you have people that are not getting the service they paid for from the auto repair business, but we do not have a way to make a specific determination. Those complaints are referred to small claims court. That is a law that we could enhance.

CHAIR NOLAN:

Does the CAD have experience conducting these investigations?

Ms. JACKSON:

Yes. We were involved with the investigation against the business in the video, [Exhibit C](#).

CHAIR NOLAN:

How many investigators do you have?

Ms. JACKSON:

We currently have eight investigators. We have two in the north and six in the south.

CHAIR NOLAN:

Mr. Dillard, have you investigated these types of complaints before or has your division investigated consumer fraud complaints? Is this part of your current responsibilities?

MR. DILLARD:

Yes. Based on the NRS, we are required to register auto repair garages. In addition, we have the "work order" law in the NRS 487.035, which requires garages to provide an estimate of charges. There is also a duplicate statute in NRS 597. Many times these complaints are going to both agencies or we share the complaint. In most cases, it begins with the CAD because every garage posts a sign with the CAD phone numbers. The CAD will notify us if it involves NRS 487 or if it is an issue related to the license.

CHAIR NOLAN:

How many investigators do you have?

MR. DILLARD:

I have a total of four investigators that handle all the garages, body shops, wreckers and salvage pools.

CHAIR NOLAN:

Ms. Delaney, you have worked with both of these agencies. In your opinion, should this remain with the CAD or should it be transferred to the DMV?

MS. DELANEY:

When these discussions started, Assemblywoman Buckley's perception as she expressed it to the stakeholders was that the current system was dysfunctional. She looked to who regulated these businesses. The feeling was the business would be more inclined to listen to the regulator. In the end, whichever agency has the responsibility, we want them to recognize patterns and practices when they develop and to make the appropriate referrals to our office. We agree that one agency should have complete responsibility. The agency that should have it is a policy decision for this Legislative body.

CHAIR NOLAN:

Thank you.

Welcome, Assemblywoman Buckley. The discussion is circling around the issue of which agency would be better equipped to address this problem. What was the discussion in the Assembly or the impetus behind moving this from the CAD to the DMV? From current discussions, there is support for the bill outside this one issue.

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

The current system is dysfunctional. A Chair of the Senate Committee on Commerce and Labor once told me that when he was a car dealer and received a letter from the CAD, he did not give it much attention. This is well-known and commonly done by this industry. The reason for that is the CAD does not have the ability to pull a business's license. If you are in a profession, you get a letter about your performance, who do you care the most about? If someone has the ability to take your livelihood away, you will probably answer them. When the entity only has the ability to refer something to the BCP for possible

prosecution, that entity is ignored. Complaints processed through the CAD have never resulted in prosecutions. This might explain why we have rampant car repair abuse.

Let us talk about the good experiences that you or your constituents have had at car repair shops. It will be a short conversation. Some of us have established good relationships where we get to know the business, and we have a relationship of trust. Once you find that shop, you never let it go. Unfortunately, as you saw from the video, [Exhibit C](#), we have some businesses who think they have a license to steal. Stealing is what they are doing by charging for repairs that are not done. There is also the case where a \$200 job becomes a \$2,000 job. Businesses are not being prosecuted. No one is holding this industry accountable. I applaud the BCP for conducting this sting operation. It makes sense to rest the authority with the entity that can pull the license if the business is not willing to abide by the rules.

Finally, the statutes do not make sense. Try to read them and figure out who does what. If I had my druthers, I would have created one agency from beginning to end. Essentially, that is what I originally proposed; however, the CAD opposed that in the Assembly. They said, give us a chance. We are committed to our mission. We believe in our mission. Do not pull this away from us. Let us continue and if it does not work, then reexamine the matter. Perhaps the new leadership will turn things around by next Session. Perhaps we will see that they have done a good job and it should return to the CAD. However, I could not support putting it all in the CAD when I do not think they have done a sufficient job. In 12 years, I have learned one thing: if it is not functional, do not give it more responsibility. I could not recommend giving more responsibility to the agency that was not getting the job done. I developed this rationale because of the confusing statutes and overlapping responsibilities that resulted in businesses being investigated twice, consumers not knowing where to go, poor historical performance and the ability to place responsibility with the agency that is going to be taken seriously.

SENATOR WASHINGTON:

I do not disagree with the concept. I have some concerns about the port of entry. I understand the CAD is under new leadership and, like you, have been here awhile. I remember when they came before us asking for authority regarding garages. In your bill, you have given the CAD some authority; therefore, there must be some belief that they are going to make changes.

I think the consumer will go to the CAD before the DMV. I think there should be a link between the two, but the port of entry should be the CAD.

ASSEMBLYWOMAN BUCKLEY:

This is the framework we came up with since the CAD wanted an opportunity to show their new commitment. The DMV would be the entry point and would handle those complaints as outlined in the statutes. The CAD would focus on deceptive trade practices or the pattern and practice cases. They can partner with the BCP. The DMV does a good job at taking complaints against car dealers. I trust the DMV's work because I have worked with them for several sessions on car dealer issues. They are competent. They can take consumer complaints and process them in a timely manner. What more can you ask of your regulatory agency? In the interim, I deal with consumer-law problems. I interact with our regulatory agencies on a regular basis, and I can give you a frontline opinion about them.

SENATOR WASHINGTON:

I appreciate your position. I remember a time when the DMV was not as competent as they are now and it took several sessions to get them pointed in the right direction. I applaud the DMV because they are efficient.

JOHN P. SANDE III (Nevada Franchised Auto Dealers Association):

The Nevada Franchised Auto Dealers Association (NFADA) supports this bill. It makes good sense because the DMV understands the industry. If something happens, they probably have dealt with it before. Having the port of entry with the DMV makes sense from a long-term standpoint. The DMV has been successful in the past at going after bad businesses.

TRACEY A. WOODS (Retail Association of Nevada):

We oppose two sections of the bill. One is the section requiring the bond. The business will have to post either a \$5,000 bond which has an annual fee of \$50 to \$150 for each location or a certificate of deposit. In addition, we prefer that one agency have the authority over the auto repair garages.

CHAIR NOLAN:

We will close the hearing on A.B. 393 and we will open the hearing on A.B. 594.

**ASSEMBLY BILL 594**: Creates a Class A certification designation for certain body shops. (BDR 43-451)

MICHAEL SPEARS (Nevada Collision Industry Association):

I currently serve as the vice chair of the Advisory Board on Automotive Affairs (Board) for the State. This Board does recommend and support the concept of Class A collision repair license endorsement. The Nevada Collision Industry Association (Association) supports A.B. 594. The Association believes the time has come to distinguish body shops from collision repair shops. The two are different, as anyone can fill out a form, post a \$10,000 bond and open a body shop without equipment, without training or even knowledge of the business. Today's automobiles require much more than that to repair them to manufacturers' specifications. Equipment such as frame repair benches with computerized measuring and four-point anchoring systems, specific types of welders and technical training are necessary and highly recommended by the auto makers to maintain the vehicle's structural integrity. This bill establishes the differences between body shops and collision repair shops and establishes criteria to advance the industry with safer collision repairs in qualified hands. This bill does not change current body shop licensing, it merely adds a Class A collision repair license endorsement as an option for those that choose to meet the requirements. Other states that have licensing and equipment standards are California, Rhode Island, Connecticut, Florida, New Jersey, Ohio and New Hampshire. States with similar legislation pending are Texas and Massachusetts.

We hope this bill will create a more attractive work environment for employees by requiring Class A shops to offer Class A-type benefits such as health insurance and retirement plans. This bill does not specify or require how costs are to be shared by the employee or the employer which leaves the door open to negotiation between those two parties. This may attract more qualified workers into our industry because there is a severe shortage of technicians. The latest U.S. Department of Labor, Bureau of Labor Statistics reports that the number of employees engaged in auto body repair has dropped nationwide to over 21,000 in a 6-year period from 1999 to 2005. The passage of this bill would be an opportunity to improve the image of our industry and the overall quality of repairs. This Class A endorsement should provide peace of mind to consumers by instilling confidence because they have chosen a shop that is qualified, properly equipped and trained in the latest collision repair techniques. This bill will require Class A certified shops to provide a lifetime warranty on



their workmanship. The NFADA had concerns with this language and we reached an agreement with them. I brought a warranty example to clarify the intent of the lifetime warranty wording ([Exhibit D](#)). In closing, I ask for your support of A.B. 594 and thank you for the opportunity to present this bill.

CHAIR NOLAN:

There is a fiscal note to the bill. We will not worry about the fiscal issues. It was heard in the Assembly Committee on Ways and Means and we do not have time. We will focus on the policy issues.

ROBERT J. MCCLEARY (Nevada Collision Industry Association):

In the Assembly, the NFADA had concerns with a couple of items. We were able to negotiate a compromise. I have a proposed amendment in the form of a mock-up bill ([Exhibit E](#)). We also addressed the concerns regarding the lifetime warranty language. The NFADA was curious how a nationwide warranty could be enforced. The proposed amendment removes references to nationwide.

SENATOR CARLTON:

Is a body shop different from a collision repair shop? Would this Class A certification only apply to collision repair shops?

MR. MCCLEARY:

Yes.

SENATOR CARLTON:

Would only Class A certification shops be allowed to perform collision repairs?

MR. MCCLEARY:

No.

SENATOR CARLTON:

What is the purpose of a Class A certification? Is it for promotional purposes?

MR. MCCLEARY:

Yes. This is more for the consumer. As Mr. Spears stated, anyone can open a body shop as long as they post a \$10,000 bond. This requires vast knowledge in the collision repair business and other items to be considered a Class A collision repair shop.

SENATOR CARLTON:

I am having a problem requiring a membership to obtain this certification. I appreciate that you want to provide insurance, retirement benefits and continuing education. I do not understand the nexus between that and being a Class A certified shop.

MR. MCCLEARY:

Those items are optional. This does not change the licensing requirement. This provides information to the consumer. It establishes parameters to be considered a full collision repair shop. Anyone can apply for this certification as long as they meet the basic requirements.

SENATOR CARLTON:

Section 6 states, "To be eligible for Class A certification, a licensed body shop must: ... Comply with ... Maintain active membership in any association ... provide employees with health insurance; retirement benefits ... ." The list goes on. I have concerns with the word "must." This bill requires the business to have all these things in order to have Class A certification.

MR. MCCLEARY:

Yes, in order to receive this certification, the shop must have these items in place. This will differentiate them from a body shop.

SENATOR HECK:

I agree with Senator Carlton. Maintaining an active membership in an association usually requires an annual membership fee. No one doubts the importance of providing employee benefits but that is a business decision for the owner, not for the State to mandate. There is no nexus to an individual having health benefits and being able to perform collision repair. You need to concentrate on what is directly related to collision repair to be a Class A shop.

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

We support A.B. 594 and the amendments as it relates to the franchise dealers who possess body shops. At this time, we meet all of those qualifications. We support improvement and the ability to hire qualified people. Over the last 5 to 6 years, we have contributed in excess of \$300,000 to the Community College of Southern Nevada, Transportation Center specifically for the Automotive Technology program. The industry is begging for good people and we feel that this Class A certification would be an enhancement for the industry. We do not

take issue with the benefits listed in the bill. A shop with a Class A certification might provide recruitment opportunities for qualified technicians.

MR. DILLARD:

As you mentioned, there is a fiscal note submitted by the Department on this bill. For the most part, the fiscal note was revenue positive. In the first year there was some expenditures; however, there's been a couple of changes to that and this used to be a fee-funded account, which the budget committees have now merged into our main highway-funded account. So there is a change in the philosophy there, as well as meetings with the bill sponsors and the agreement—to get this on the record—the agreement was—initially they're expecting 30 percent of the existing body shops to merge into this Class A. That's a large demand on manpower to get them investigated. So we were going to do that via contract. We've spoken with them and they've agreed that we'll do those as we are able to get them. There is no specific timeline associated with them. So as that manpower is available, we'll go ahead and conduct those inspections. With that and where we stand today, now that this is a highway fund issue, where we stand today with programming hours and programming for this, we've looked at those and it appears that we'll be able to absorb the programming hours without any additional funding. As long as you don't tell the Assembly Transportation Committee. And, therefore, the expenses on the fiscal note will be nil.

CHAIR NOLAN:

Mr. Dillard, please provide that in writing since there is not time for this bill to be heard in the Senate Committee on Finance.

MR. DILLARD:

We will provide a soft copy of a fiscal statement.

JEANETTE K. BELZ (Nevada Chapter Associated General Contractors):  
Did the DMV say this would impact the State Highway Fund?

MR. DILLARD:

The projected revenue to the State Highway Fund in the first year is \$29,100 with 10-percent growth each year thereafter. It will all be positive revenue to the State Highway Fund with no additional expenses.

MS. BELZ:

Thank you.

CHAIR NOLAN:

I have asked Senator Carlton and Senator Heck to draft a proposed amendment addressing their concerns before we process this bill. We will close the hearing on A.B. 594 and we will revisit it later in the meeting. We will open the hearing on A.B. 619.

**ASSEMBLY BILL 619 (1st Reprint)**: Creates the Nevada Automobile Theft Authority. (BDR 43-1503)

ASSEMBLYMAN JOHN OCEGUERA (Assembly District No. 16):

This bill is an aggressive response to address the State's new number one ranking, which is vehicle thefts. I have provided a handout for the Committee's review (Exhibit F, original is on file in the Research Library). This crime has a tremendous impact, not only on the individual that owns the stolen vehicle, but on insurance costs. Individuals whose cars are stolen must deal with the financial loss, the hassle and the challenge of finding alternative transportation. Statistics presented in the Assembly underscore the need for the State to take aggressive action now before the situation deteriorates. These statistics are stunning. In April 2007, the National Insurance and Crime Bureau announced that Clark County had the nation's highest vehicle theft rate for 2006. According to the data, 22,441 vehicles were stolen in Clark County in 2006. That is about 13,111 stolen for every 100,000 residents. In 2005, Las Vegas ranked second in the nation for vehicle thefts. Vehicle thefts climbed nearly 23 percent in the first 4 months of 2006 alone compared to 2005. Nationwide, auto thefts have been declining over the past few years. In the first half of 2006, national rates were down about 2.3 percent, yet in Nevada those rates continue to climb. While Nevada's motor vehicle theft rates have raised, the rates of our neighboring states, California and Arizona, have gradually fallen. This turnaround has been accomplished through aggressive, coordinated enforcement and tougher criminal penalties for habitual offenders. Since these states have implemented these aggressive tactics, I believe the thieves are

coming to Nevada. Motor vehicle thieves and organizations find that Nevada is an easy target.

Vehicle thefts are also a significant factor impacting vehicle insurance rates for Nevada drivers. Nevada has the thirteenth highest average expenditure for automobile insurance in the country. Between 2000 and 2004, rates increased by 13.2 percent.

ASSEMBLYMAN OCEGUERA:

Arizona has a model and we have patterned this legislation after that model. Arizona has created an automobile theft authority called the Arizona Automobile Theft Authority (AATA). Their mission is to deter motor vehicle theft through a cooperative effort by supporting law-enforcement activities, prosecution and increased public awareness through community education programs. Let me emphasize that no General Fund money will be used to fund this entity or its work. The funds generated by the assessment will not be diverted into the General Fund or used for any other purpose. The AATA membership includes law enforcement, insurance representative and district attorneys. The AATA can accept and make grants to further its mission. Some of the initiatives undertaken by the AATA are described in the handout, pages 16 through 19 of [Exhibit F](#). They include public awareness and education programs as well as the "Watch Your Car" program. Some concerns might be raised that Arizona also has a higher number of motor vehicle thefts like Nevada. However, the statistics presented in the 2006 report indicate that Arizona's collaborative, aggressive approach is having an impact. On page 11 of [Exhibit F](#), the chart depicts the overall decrease in vehicle theft rate over the past ten years, particularly since 2002. Further, the AATA has strong support from the insurance industry and has a positive impact on insurance costs. I will quote from page 28 of [Exhibit F](#):

The efforts of the AATA in implementing innovative theft-prevention awareness programs, coupled with its commitment to investigations and aggressive prosecutions of vehicle thieves, has played a significant role in stabilizing comprehensive insurance rates in Arizona.

I will review the bill for the Committee. Section 1 specifies that the new provisions will be placed in chapter 481 of the NRS. Sections 2 through 5 provide definitions for the terms used in the bill. Section 6 creates the Nevada Automobile Theft Authority (NATA) within the DMV. It will consist of

13 members and includes the Insurance Commissioner, the director of the Department of Public Safety, sheriffs from northern and southern Nevada, police chiefs, a district attorney, insurers and the general public. In addition, the director of the DMV will serve as a nonvoting member. Section 6 also provides for the election of the chairperson, the frequency of the meetings and the terms of the members and their compensation, which is limited to per diem and travel expenses within available resources. Section 7 governs the removal of members. Section 8 is the administrative operation of the NATA. The DMV, to the extent of available existing resources, must provide administrative support, equipment and office space as necessary for the NATA to carryout its duties. To the extent money is available from the fund created by this bill under section 9, the NATA may provide for these items as well as employ necessary staff including an executive director whose salary is capped at \$75,000.

ASSEMBLYMAN OCEGUERA:

Section 8 is the grants and gifts section. It also allows for the NATA to apply for and accept grants for the use in carrying out its duties as well as accept donations of goods and services for limited purposes. Subsection 4 outlines the duties of the NATA to include determining the scope of the motor vehicle problem, analyzing the methods of reducing theft, developing and carrying out plans to reduce theft and funding of the activities of the NATA. Subsection 5 authorizes the NATA to award grants from the funds of public agencies for the purposes of establishing, maintaining and supporting programs designed to prevent motor vehicle theft. Finally, subsection 8 requires the NATA to prepare an annual report concerning its activities. The annual report will be submitted to the Governor, the Secretary of State, the State Library and Archives Administrator and the director of the Legislative Counsel Bureau (LCB) for transmission to the Legislative Commission. During each regular Session of the Legislature, the NATA must submit a consolidated report of its activities for the prior two fiscal years to the director of the LCB for posting on the Legislature Website and transmittal to leadership, the Legislative Commission, the judiciary committees and the transportation committees.

Section 9 creates the fund for the NATA and requires that all public and private money received be deposited into the fund. Subsection 4 specifies that the money may only be used to the pay the administrative expenses of the NATA and to carry out the provisions of sections 6 through 10. Also, for the record, "there is absolutely no intention that the money going into this fund will ever be diverted into any other fund for any other purpose or will be diverted into the

State's General Fund." To ensure the integrity of this fund, the LCB's Audit Division must conduct an audit of the fund every two years. The audit must be submitted to the Governor and the Legislative Commission. Section 10 provides the resources for the NATA's operation. Each insurer must pay a semiannual fee of 50 cents for each vehicle insured by that insurer on October 31, and April 30. These two dates fall within the semiannual coverage periods, January 1 to June 30 and July 1 to December 31, and they are designed to ensure that a person who switches insurance companies is not charged 50 cents more than once. The insurer must pay the NATA the amount due on or before January 31 and July 31 of each year to be deposited into the fund. Sections 16 and 17 note the initial fees are payable on July 31, 2008, for vehicles insured on April 30, 2008. These future dates are necessary to give the insurers time to implement the necessary policies and procedures. Because of that necessary time delay, sections 1 through 11, 13, 14 and 15 are not effective until July 1, 2008. Sections 12 and 15 prohibit probation or a suspended sentence for a person convicted of a motor vehicle theft who has previously been convicted twice of the same crime. In addition, section 13 imposes a civil penalty of \$500 to be paid into the fund. Section 14 provides staggered expiration dates for the terms of the members appointed to serve on this NATA and the members must be appointed as soon as practicable after July 1, 2008.

In summary, we cannot wait another two years to address this growing problem in Nevada. Arizona's vehicle theft rates are gradually decreasing and the insurance rates are stabilizing. As the effective dates demonstrate, it takes time to put the necessary funding in place. Therefore, we need to take action this Session to provide the structure that allows our law enforcement agencies and the insurance industry to collaboratively and aggressively address this growing problem.

SENATOR LEE:

Are most of the stolen vehicles found in Clark County? Are they joyrider types of thefts?

ASSEMBLYMAN OCEGUERA:

The recovery rate is around 60 percent. I am not sure what you would consider joyriding. If my car was missing from my driveway, I would consider it stolen.

SENATOR LEE:

Is education a big component to this matter?

ASSEMBLYMAN OCEGUERA:

Yes, education is a huge component.

SENATOR CARLTON:

Are these employees going to be in state service?

ASSEMBLYMAN OCEGUERA:

Yes, I would consider them in state service.

SENATOR CARLTON:

I am curious about section 12. The courts usually plea the charges down to a lesser sentence; therefore, I am not sure how often you would get someone with a grand larceny conviction. I do not think you are going to get to the people you want to get to this way. I have another concern about prison overcrowding and the language, " ... must not be released on probation ... ." That means they have to serve their full sentence. Will they be eligible for parole?

ASSEMBLYMAN OCEGUERA:

From my conversations with law enforcement, about 10 percent of the offenders are doing about 90 percent of the crimes. If they could target these habitual offenders, then about 90 percent of the crimes would be gone. However, I will defer to law enforcement and others to answer your question.

SENATOR CARLTON:

I understand what you are trying to do by not granting them probation. You want them in jail and off of the streets. How are these fees going to be assessed?

ASSEMBLYMAN OCEGUERA:

Several insurance companies are here to testify on the fee. I will defer to them. From my personal perspective, I would be willing to pay the 50 cents to stabilize or lower my insurance rates.



THOMAS A. ROBERTS (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We support A.B. 619 for three reasons. First, it increases the penalties for repeat auto theft offenders. Secondly, it mandates collaboration between organizations that combat auto theft, both public and private. Third, it provides funding for the programs that could reduce auto theft. The vehicle theft recovery rate in Clark County is approximately 70 to 75 percent. Approximately 25 percent of the vehicle thefts are thought to be professional thieves and their chop shops. Law enforcement will collaborative work with the district attorney's office to get these offenders behind bars and off the streets. Repeat offenders would not be pled to a lesser offense. I will close with some statistics for last year. There were 1,154 adults arrested for auto theft, 160 of those had two prior arrests for auto theft and 25 of those had convictions for auto theft. We are targeting approximately 25 people that would be considered repeat offenders and would incur mandatory prison time.

SENATOR CARLTON:

Are we going to negotiate with these people after we have seen them a few times?

MR. ROBERTS:

That would be up to the district attorney's office through negotiations on a case-by-case basis. I will defer that to the district attorney representative. They would look at the merits of the case and determine whether or not a plea would be acceptable depending on the past criminal experience.

SENATOR CARLTON:

In your opinion, are we silent on the parole issue? Are you just interested in making sure these guys do not get probation?

MR. ROBERTS:

Yes.

KRISTIN L. ERICKSON (Nevada District Attorneys Association):

Auto theft is a growing problem in this entire State and we look forward to working with law enforcement and the auto theft committee in addressing this serious problem. This piece of legislation is a giant step forward in reducing the auto theft risk and we support this bill.

MICHAEL D. GEESER (AAA Nevada):

We support this bill. There are ten cost drivers that affect insurance rates and auto theft is one of them. This bill captures that problem. As you heard, the cost is reasonable. According to the Nevada Insurance Council, every consumer in Nevada, including those who work for insurance companies, pays approximately \$200 to \$400 a year for auto theft. It has become a major problem that needs addressing. This bill will not cover every factor that drives insurance rates up. Again, we think this bill will be meaningful for insurance companies and for the insurance consumer in the State.

SENATOR CARLTON:

Is there backup documentation on the \$200 to \$400 for auto theft?

MR. GEESER:

Yes, and I will provide you with that documentation.

SENATOR CARLTON:

Who did the study?

MR. GEESER:

The study was conducted by the Nevada Insurance Council. It is an educational arm within the State.

SENATOR CARLTON:

Is it an independent agency?

MR. GEESER:

Yes.

JESSE WADHAMS (American Insurance Association):

We support this bill. We have one clarification area and it is in section 10 for the 50-cent fee on each vehicle and how it applies to commercial fleets. I have spoken with Assemblyman Ocegura and we will provide clarification language.

JIM SPINELLO (Progressive Insurance):

We support this bill and believe it is an important measure that could solve an expensive problem for Nevadans.

SENATOR CARLTON:

Will Progressive Insurance pass this fee on to its customers or will it be absorbed?

MR. SPINELLO:

I do not know. It is important that the insurance companies have that option.

SENATOR CARLTON:

How many vehicles does Progressive Insurance insure in the State?

MR. SPINELLO:

I believe it is about 120,000.

SENATOR CARLTON:

How many vehicles are insured throughout the State?

ASSEMBLYMAN OCEGUERA:

Senator Carlton, it is approximately 1.7 million vehicles in Nevada.

KENNETH WILLIAM COOLEY (State Farm Insurance Company):

State Farm Insurance Company (State Farm) does not take positions on fees. This bill has been well-drafted. The mechanics allowing for lead times work well for the insurance carriers. It is also important that insurance carriers be given the option to absorb or pass on the fee. You may find many carriers that will end up absorbing the fee in their rate expense loading. On the issue of rates, this affects the comprehensive cost structure. Comprehensive insurance is a small part of the coverage a person purchases. Insurance carriers are looking at Nevada as a place to do business. State Farm has been actively looking to return funds to our customers and to compete in the market place. Taking an aggressive stand on car theft will send a signal to the marketplace that this is an attractive place to compete for customers.

This bill is well designed towards collaborative enforcement efforts. In 2002, the AATA enhanced its efforts to prosecute auto insurance fraud. That coincides with the increase in auto thefts for Clark County. It is striking as to how dramatically auto theft has climbed in recent years. In 2006, Nevada's increased auto-theft rate exceeded the rate of change in the population. This bill is designed for collaboration and to address this problem now. The law

enforcement and prosecutor communities are ready to focus on this problem. This bill should have a positive impact, which will be good for Nevadans.

SENATOR CARLTON:

Will this fee only apply to people who carry comprehensive insurance? Several people own older vehicles and only carry liability insurance.

MR. COOLEY:

Following the Arizona model, it is applied to all insured vehicles. A reduction in auto theft would affect overall insurance rates. Everyone is burdened by auto theft; therefore, everyone will benefit from a reduction in auto thefts. The Arizona model has been very successful.

SENATOR CARLTON:

I feel I am going to pay a fee that I will not be able to utilize. I do not have comprehensive insurance on an old vehicle; however, my insurance company may pass that fee along to me anyway. If that vehicle is stolen, I do not get anything for it, yet I have been paying this fee. I am uncomfortable with this structure.

MR. SPINELLO:

Senator Carlton, even if you do not insure the vehicle for the loss, if you lose it, you have lost something. If theft rates do go down, you would still benefit because your vehicle was not stolen.

SENATOR CARLTON:

There are no guarantees that insurance rates will go down. How am I benefiting from paying this fee?

MR. COOLEY:

This bill will say to the insurance marketplace that the Nevada Legislature is improving the quality of life. They are addressing problems that drive costs up. It may enlist stronger competition in the marketplace. Through that mechanism, people will feel that things are moving in the right direction.

MR. FREDIANI:

We support A.B. 619 and want to commend the Las Vegas Metropolitan Police Department for working with the southern Nevada Franchised Auto Dealers Association. They have attended numerous meetings with us. Obviously, the

members have already taken steps related to lighting, cameras, and security and they are still subjected to auto theft. Our rates are driven by the garage and property liability insurance. We have 65 franchised new car dealerships in Las Vegas and Henderson with approximately \$7.5 million to \$1 billion in inventory. The average new car costs about \$28,000 and the average used car costs about \$15,000. It does not take much to drive your rates up.

SENATOR CARLTON:

How much will this cost your dealers?

MR. FREDIANI:

I do not know. Over the last 3 years, our garage and property insurance has risen about 35 percent. I assume that a portion is due to an increase in auto thefts.

SENATOR CARLTON:

Will your franchised auto dealers have to pay the fee?

MR. FREDIANI:

Yes, they will.

CHAIR NOLAN:

We will close the hearing on A.B. 619 and open the hearing on A.B. 624.

**ASSEMBLY BILL 624**: Provides that special mobile equipment or a farm vehicle that contains dyed special fuel in the fuel tank may be operated on certain highways in this State in certain circumstances. (BDR 32-1509)

ASSEMBLYMAN PETE GOICOECHEA (Assembly District No. 35):

This bill was brought forward after we received a number of constituent complaints about citations being issued on farm equipment containing dyed fuel. These farm tractors were going from one farm property to another or were en route to the repair or tire shop by way of a local highway. Under existing law, at the point the vehicle left the farm, that vehicle would have to use regular fuel. Therefore, the fuel system would need to be drained and purged of the dyed fuel. That is why we brought A.B. 624 forward.

This bill mirrors federal language that other states have incorporated. The federal code says that if the equipment cannot be registered, then it can use

dyed fuel. We have also clarified definitions for farm equipment and special mobile equipment. We would like to change the effective date from October 1, 2007 to "upon passage." We received word from a constituent that his fertilizer spreader was ticketed today by the Nevada Highway Patrol (NHP). Therefore, we need to quickly clarify this language.

SENATOR HECK:

How do they know what fuel is in the tank?

ASSEMBLYMAN GOICOECHEA:

Most tractors have clear fuel filters; therefore the officer can see if the fuel is clear or dyed. Otherwise, they will dip the tank to verify the color.

SENATOR CARLTON:

Are all these tickets being issued by the NHP?

ASSEMBLYMAN GOICOECHEA:

Yes, at least the tickets that I have seen.

SENATOR LEE:

I have a fertilizing business and I travel from farm to farm. Will I be able to use the dyed fuel?

ASSEMBLYMAN JOHN C. CARPENTER (Assembly District No. 33):

In that situation you would not be allowed to use dyed fuel in your vehicle or your fertilizer spreader because you are going on the highway to pick up your loads. However, if you were a farmer and you purchased a fertilizer spreader for your farm, and you went from one field to another field, then you would be allowed to use dyed fuel.

Mr. Chair, in regard to a question from Senator Carlton, I believe the NHP is not looking at the law as it is now. Several sessions ago, Assemblyman Dini and I worked extensively on this law so that people who were going from field to field could travel on the highway. The tickets being issued now are for that exact usage. I do know why we did not discover at that time that the federal law says if a piece of equipment cannot be registered, then they are allowed to use dyed fuel when they are going from field to field or going to the shop to get the equipment repaired. They are allowed to use dyed fuel in that situation. This, in no way, allows them to travel from here to Denio or Winnemucca with

dyed fuel in the tank. This is for local uses or local trips. There was an article in the local paper where the NHP talked about the reason they were issuing these tickets. I think their interpretation of the law is not correct because they were talking about crossing a highway. We changed the law at a previous session where you could cross the highway. This is why we are here again. We want to clarify the law so there is no misinterpretation.

DOUG BUSSELMAN (Nevada Farm Bureau):

We support A.B. 624. Prior to drafting this legislation, we had a meeting with Lieutenant Bainter from the NHP. He suggested we look at what other states were doing. We heard reports of farmers being ticketed as early as last December. We thought about having our members run on regular fuel and then going through the process of claiming a refund for the amount of time they spent off-road. This proved to be unmanageable for the members. Other states have incorporated the federal language that says if a vehicle cannot be registered, then it can use dyed fuel. We urge you to support this bill.

EDGAR ROBERTS (Administrator, Motor Carrier Division, Department of Motor Vehicles):

We did work with the bill sponsors, and we support A.B. 624.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 624 WITH THE EFFECTIVE DATE TO BE UPON PASSAGE.

SENATOR WOODHOUSE SECONDED THE MOTION.

SENATOR LEE:

Do people move animals, and are they allowed to use dyed fuel?

ASSEMBLYMAN CARPENTER:

We do move animals from field to field. It is usually a short distance; therefore, we use equipment that uses regular fuel.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.  
SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will reopen the hearing on A.B. 594. Ms. Wilkinson, please provide a summary of the proposed amendment from Senator Heck and Senator Carlton.

**ASSEMBLY BILL 594**: Creates a Class A certification designation for certain body shops. (BDR 43-451)

SHARON WILKINSON (Committee Counsel):

The proposed amendment would change section 6, deleting subsection 2 requiring that the person, in order to be eligible for the Class A certification, to maintain an active membership in any association in the State. The subsection requiring the person to provide employees with health insurance, retirement benefits and the continuing education credits would also be deleted. Section 11 would be amended. Under the current law, the DMV may temporarily suspend or refuse to renew a license. The amendment would delete the word "temporarily" to say the DMV would suspend or renew the license pending an investigation. Currently, the DMV suspends or renews a license for not more than 30 days. The amendment would take out "for not more than 30 days" and add "pending an investigation." Paragraph (b) would be deleted altogether. Subsection 2 would be amended to read "the Department shall conduct a hearing and issue a final decision on the matter within 30 days after receiving the results of the investigation."

CHAIR NOLAN:

Are there any questions on the proposed amendment? Does the Committee feel comfortable with it?

SENATOR CARLTON:

Mr. Chair, I will explain the proposed amendment. Removing the "temporarily" would be predicated upon receiving a complaint. It would be "pending an investigation," rather than having it extend the full 30 days. Depending on the results of the investigation, the complaint would move into the hearing and appeal phase. My intention was to have a response in a timely manner. I think the DMV should conduct an investigation rather than deny a license renewal. They should not be able to temporarily deny a renewal. That was my goal. Please correct me if I have misinterpreted anything.



MR. DILLARD:

As stated, the proposed amendment changes existing law. This is our practice for every industry we regulate. We would be amenable if the proposed amendment was limited to the Class A certificate process. We may have due process concerns if we change existing law affecting the other industries.

SENATOR CARLTON:

My intention was not to change existing law. I only wanted to apply it to the Class A certification. I think I have put it in the wrong place.

CHAIR NOLAN:

Would this create a different investigatory and appeals process?

MR. DILLARD:

That is correct. We have roughly 1,100 licensees that we license and register. It would not impact any of those businesses if it was limited to the Class A certification.

SENATOR NOLAN:

Under what conditions do you temporarily not renew a license? Would there be a complaint filed?

MR. DILLARD:

Under the existing license law, we have the authority to suspend a license if it is in the best interest of the public. We use two practices. We will issue a notice to the business of the violations and advise them of their ability to request hearings. It is a normal due process. If the violation is so egregious that it causes potential damage to public health or welfare, we can shut the business down immediately with final action pending the results of an investigation. The investigation and the due process hearing must occur within 30 days of that action. That is what I am concerned about jeopardizing. However, there is a blank slate in relation to the Class A certification.

SENATOR CARLTON:

I need to clarify my intent. Is this based on complaints? I thought the first step was receiving a complaint.

MR. DILLARD:

Our action is not always a result of a complaint. It can be the result of an audit.

SENATOR CARLTON:

I may have overstepped my bounds. I am concerned with taking someone's business license away. I do not understand the process. Why are you suspending it or not renewing it for 30 days?

MR. DILLARD:

Typically, the process begins with a complaint or something that we discover through an audit process. We have to provide notice to the business outlining exactly what we are alleging or what violation has occurred. This is what we base our actions on and we provide the business with due process based on that action. It has to be very serious for us to shut a business down without first going through that process.

SENATOR CARLTON:

I did not realize the investigation was already built into the law. I still have a concern about the 30 days. What does the 30 days accomplish?

MR. DILLARD:

If it is in the best interest of the public, we shut the business down. They receive a hearing within 30 days. The business can choose to extend that beyond the 30 days. We are obligated to have the case complete and ready to present within 30 days. As a matter of fact, the result has to be found within the 30 days. The hearings typically occur sooner than 30 days and the administrative law judge makes a finding within that 30-day period.

SENATOR CARLTON:

I will withdraw that particular part of the proposed amendment.

CHAIR NOLAN:

I agree after hearing the testimony. Ms. Wilkinson, please review the proposed amendment one more time.

MS. WILKINSON:

On page 2, section 6 currently reads, "To be eligible for a Class A certification, the licensed body shop must: ... " and it lists several criteria. The proposed amendment would delete subsection 2, "Maintain active membership in any association ... involving motor vehicles." The proposed amendment would also delete subsection 4.

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CHAIR NOLAN:

Do Committee members have any questions on that proposed amendment? In addition, we have a proposed amendment from the primary sponsors of the bill.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 594.

SENATOR CARLTON SECONDED THE MOTION.

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

\* \* \* \* \*

CHAIR NOLAN:

We will have a brief meeting on Thursday to take final action on remaining bills. Also, Wednesday afternoon we will have a joint meeting with the Senate Committee on Taxation to hear the transportation funding bill. It is important that all Committee members be present for that hearing.

SENATOR WASHINGTON:

Will we be hearing both transportation funding bills?

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CHAIR NOLAN:

The intention is to hear the Governor's bill, which was introduced today. The other bill is on hold. We may incorporate tenets of both bills into one bill. There being no further comments or business, this meeting of the Senate Committee on Transportation and Homeland Security is adjourned at 5:30 p.m.

RESPECTFULLY SUBMITTED:

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Lynette M. Johnson,  
Committee Secretary

APPROVED BY:

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Senator Dennis Nolan, Chair

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