

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

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

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 3:33 p.m. on Thursday, March 8, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file 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 Mark E. Amodei
Senator Maggie Carlton
Senator John J. Lee
Senator Joyce Woodhouse

GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Elana Graham, Assistant to Committee Manager
Wes Henderson, Intern to Senator Nolan
Dan Lindholm, Intern to Senator Nolan
Nicholas Marquart, Intern to Senator Nolan
Josh Selleck, Assistant to Senator Nolan
Matt Szudajski, Committee Policy Analyst
Lynette M. Johnson, Committee Secretary

OTHERS PRESENT:

Kenneth Kruger, Nevada Professional Driving School Association
Ron Kendall

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Virginia (Ginny) Lewis, Director, Department of Motor Vehicles
Craig Kadlub, Clark County School District
Leo Drozdoff, P.E., Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources
Colleen Cripps, Ph.D., Deputy Administrator, Air and Waste Programs, Division
of Environmental Protection, State Department of Conservation and
Natural Resources
Kyle Davis, Nevada Conservation League
Jane Feldman, Sierra Club
Raymond J. Flynn, Las Vegas Metropolitan Police Department; Nevada Sheriffs'
and Chiefs' Association
Larry Casey, Executive Director, Nevada Commission on Homeland Security
Glade Myler, Senior Deputy Attorney General, State Emergency Response
Commission, Department of Public Safety
Shaun E. Jillions, City of Henderson
Sabra Smith-Newby, Clark County

CHAIR NOLAN:

We will open the hearing on Senate Bill (S.B.) 91.

SENATE BILL 91: Requires the Department of Motor Vehicles to collect and
publish certain information concerning schools and courses that provide
training or instruction to drivers. (BDR 43-996)

KENNETH KRUGER (Nevada Professional Driving School Association):

The Nevada Professional Driving School Association (Association) agrees that a
method of retrieving information on driver-training education is overdue. We
support S.B. 91 with some modification. The bill currently requires all private
and public driving schools to send their records to the Department of Motor
Vehicles (DMV) for processing. This would be a burden to the DMV in that they
would have to match training records to the driving records, and approximately
40,000 people go through driver-training classes every year.

The Association proposes to amend S.B. 91 ([Exhibit C](#)) to have schools indicate
on the student's completion certificate the type of training they completed. For
example, the student completed classroom training, behind-the-wheel training or
simulator training. When the student applies for a driver's license, the DMV
clerk would enter the type of training into the database. This step would not
burden the DMV as the clerk must conduct data entry for the new driver before

the student completes their road test. This amendment would alleviate the need for any additional employees. Another potential amendment would be an improved definition for simulator. Without a better definition, the personal computer with a race-car program could be construed as a simulator. There are several off-the-shelf simulators that fit the current definition.

CHAIR NOLAN:

Mr. Kruger contacted me during the interim. We discussed his interest and background in driver training. During that discussion, he asked if I would sponsor a measure addressing this concept. I agree with Mr. Kruger's concept, which is to produce better drivers. However, there might be potential concerns from Committee members, and we will try to work through those. Please provide some background information regarding this bill.

MR. KRUGER:

For 60 years, driver's education has been taught in high schools or through private driving schools. Every instructor thinks they have the best class and are doing a terrific job. No data exists to verify these thoughts. This bill will enable the DMV to gather statistics to compare whether one type of training is better than another.

In 1980, the U.S. Department of Transportation (USDOT) conducted a ten-year study in Georgia. They sampled 9,000 students that had taken driver's education through their high school and another 9,000 students that had not had formal training. The USDOT compared the two groups' driving records over a ten-year period and found no significant difference. It reflected badly on the high school programs.

Some of you might be thinking that a behind-the-wheel training program is really good but consider the individual living in Pioche. What or how are they going to be taught? Are they going to be prepared for congested city driving? A simulator can provide congested city-driving conditions. It would be great to have statistics that show whether or not the simulator training was effective.

CHAIR NOLAN:

I might add, the reason I agreed to sponsor the bill, was to help develop some criteria to monitor the proficiency of the driving schools. There are certain requirements that must be fulfilled before someone can operate a driving school. I do not know if we have established any way to validate that these schools are

really teaching what they are supposed to be teaching. I think, ultimately, we are trying to distinguish the good schools from the bad. Am I correct?

MR. KRUGER:
That is correct.

SENATOR HECK:
I am having a hard time understanding the purpose of the bill. Even if this particular data is collected, I do not see how a statistical analysis can be done based on an individual's future driving record. In addition, I have concerns with the language on page 2, lines 15 through 17, "... shall maintain such records and information as directed by the Department concerning the method" What information are we going to have the DMV decide they need to collect? We live in a free-market economy, and if somebody wants to open up a driving school and do a poor job, then eventually they would be out of business. Granted that might not always be the case because some people may want to attend that school where they pay and receive a certificate. I am having difficulty understanding what value we will be receiving.

MR. KRUGER:
My proposed amendment would remove that language you mentioned. I am hoping that by putting the type of training on the completion certificate, the DMV would be able to compare driving records with the type of training, hopefully yielding correlations. From these correlations, the curriculum for future driving-training courses could be modified.

SENATOR HECK:
That might work to collect the exact information you desire; however, this method would not take into account the other variables that may have caused the accident.

SENATOR CARLTON:
I have gathered from your testimony, that there are businesses claiming to provide driving instruction and are not providing this service. You would like to be able to identify those businesses and attach statistics to help quantify this finding. If there was another way to investigate or determine which driving schools were delivering versus which ones were not, would that solve your problem?

MR. KRUGER:

This is exactly what I am trying to accomplish. Also, we have two different training systems. We have private driving schools that are licensed and regulated by the DMV, and we have public schools that are regulated through the Department of Education. The private driving-school regulations are more comprehensive than the public school regulations. At present, Washoe County provides an off-site school on the weekends. They charge \$99 for the course, they do not fall within the private driving-school regulations nor do they administer a final test to the students.

SENATOR CARLTON:

Mr. Kruger, are you concerned with public schools being in competition with private driving schools for the same pool of business?

MR. KRUGER:

Yes.

SENATOR CARLTON:

Would you like both public and private driving schools to play by the same rules?

MR. KRUGER:

Yes, absolutely.

SENATOR CARLTON:

Keeping that in mind, I believe people should be behind the wheel. Mr. Chair, I am not sure where we can take it from here now that we know the underlying problem. I understand where the conversation is going.

RON KENDALL:

I support S.B. 91 and agree with Mr. Kruger's testimony and amendment. I brought this idea to Senator Raggio last March and have put a lot of time and effort into it. We have the DMV database that tracks accidents. We also have public and private driving schools but no way to show the results from driver training. I was a software developer and a programmer. I feel so strongly about this bill that I am offering my time pro bono to help the DMV with the computer work.

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

I understand Mr. Kendall's and Mr. Kruger's concept, which is to evaluate the type of training with the drive record and drive behavior. I would caution the Committee that the type of training should not be the sole consideration when evaluating the cause of an accident. There are several other factors involved.

There is a fiscal impact to this bill. As the bill is currently written, the DMV would input that data into our database. We would have to modify our current computer application, expanding fields to capture the new information. Therefore, the DMV has submitted a fiscal note to cover the changes to the computer application. Mr. Kruger's amendment mentions the information would be captured on the certificate of completion and we would enter that at the time the individual applies for their driver's license. Inputting this data would require additional data-entry time for the clerks. The amendment eliminates a data-entry person that was in the fiscal note. The bill does require that an annual analysis be performed and that we provide a report of the findings. The fiscal note also addresses a management analyst position and the printing costs for the report.

CHAIR NOLAN:

Would you explain the application, monitoring and complaint process for private driving schools?

MS. LEWIS:

We evaluate the curriculum and they have to meet requirements established in the *Nevada Revised Statutes*. We also conduct background checks on all instructors since they interact with juveniles. They are then licensed and regulated through the DMV. The DMV's Compliance Enforcement Division routinely audits the licensed driving schools and investigates any complaints.

CHAIR NOLAN:

Are you aware of any schools that have received significant complaints that your staff had to initiate some type of corrective action? What is the latitude of enforcement that you can take with these schools?

MS. LEWIS:

It depends on the violation or complaint. If it is a minor violation, we attempt to help them obtain compliance. If it is repetitive, a major violation or they are uncooperative, we can close the school.

SENATOR HECK:

Are the DMV-licensed schools required to provide behind-the-wheel training? Is there a difference between the private driving schools and the public schools?

MS. LEWIS:

It is the school's choice to provide behind-the-wheel training. By law, the DMV requires 30 hours of classroom training and 50 hours of behind-the-wheel training. In most cases, the parent chooses to monitor the behind-the-wheel training and attest that their child has completed it. There is a provision that allows for a comparable one hour of behind-the-wheel training for three hours of classroom training.

CRAIG KADLUB (Clark County School District):

I think the questions about whether or not the data will yield the information desired have adequately been addressed. I would like to state that although we did not indicate a fiscal note, we would incur a cost to gather, track and report information on 40,000 or 50,000 students. We would not oppose a measure based on an insignificant cost. We are not territorial about driver's education. Our number-one interest is seeing that the students receive adequate instruction. If you would like us to change our curriculum, we would ask that you provide financial assistance to cover the costs to implement the change.

CHAIR NOLAN:

We will schedule S.B. 91 for a work session. This will give the Committee members additional review time and propose any additional amendments. You will be notified when we set the date.

We will close the hearing on S.B. 91 and open the hearing on S.B. 118.

SENATE BILL 118: Requires the State Environmental Commission to adopt regulations relating to the handling and storage of certain quantities of mercury. (BDR 40-209)

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

The bill, S.B. 118, was requested by the interim committee for the Protection of Natural Treasures (Interim Committee). The bill requires the State Environmental Commission (SEC) adopt specific regulations for the handling and storing of mercury in quantities over 1,000 tons and take appropriate action to protect the health, safety and welfare of the State's residents. These regulations would be

included as part of the Chemical Accident Prevention Program (CAPP) under the Division of Environmental Protection (DEP).

As many of you know, it is important to make people aware of the State's natural treasures. One of the Interim Committee's charges was to ensure those treasures are protected and available for generations to come. One hearing was held in Hawthorne. We learned that the federal government was attempting to move mercury to the Hawthorne Army Depot (Depot). The Depot was established in 1930 to receive, renovate, maintain, store and issue ammunition. Recently, the Defense National Stockpile Center, under the U.S. Department of Defense (DOD), decided to store more than 4,500 tons of mercury at the Depot. For 50 years, this mercury has been stored in Indiana, New Jersey, Ohio and Tennessee. Mercury is a naturally occurring metal and is found throughout the environment. Mercury is a recognized public-health concern and a known neurotoxin. Although some politicians have tried to deny its potential harmful effects, scientists agree that mercury can accumulate in the food chain, negatively impacting aquatic life, wildlife and human life. The Interim Committee became concerned when we found out about the DOD's plan to move the mercury stockpile to the Depot. We wanted to be sure the DOD's decision to consolidate the long-term storage of mercury took into account the proper handling, transporting and storage of the mercury.

The SEC had this same concern and responded by adding mercury to the list of the hazardous substances under the CAPP. The Interim Committee believes, and the DEP agrees, that it is important to add this provision to statute. We do not think Nevada is a wasteland nor do we believe it should become a dumping ground for hazardous materials. We have to stay ever vigilant and be prepared to deal with these circumstances as they arise.

SENATOR HECK:

How would S.B. 118 impact the Depot since it is a federal installation?

LEO DROZDOFF, P.E. (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The provisions of the CAPP apply regardless of it being a federal installation.

SENATOR LEE:

Will the DOD notify the Governor or some other State official? What are some of the provisions regarding the handling of this mercury? What are the procedures?

MR. DROZDOFF:

They are required to obtain our approval before this is initiated. That would be considered notification. The State is involved in the movement of and any issues surrounding the mercury stockpile.

SENATOR LEE:

Who would incur the penalties if they did not comply with state law?

MR. DROZDOFF:

I believe the federal government would incur the penalties.

SENATOR HECK:

Why does the bill specify 1,000 tons? Can you quantify that amount?

MR. DROZDOFF:

In our forthcoming testimony, we are going to request the amount be reduced from 1,000 tons to 100 tons. We selected this amount because it is defined in the CAPP. Also, it would ensure that partially filled buildings be regulated. As Senator Titus stated in her testimony, the overall amount is 4,500 tons, but we think it is important to lower the threshold so that each building is subject to regulation.

SENATOR TITUS:

The Interim Committee agrees with this change. We want it to be as secure and safe as possible.

SENATOR LEE:

Will the Depot be receiving more hazardous material from the DOD? Is there a specific reason the DOD selected the Depot to receive this material?

SENATOR TITUS:

It is a finite amount. The Depot is a storage facility that has been rehabilitated to receive this stockpile. The Interim Committee also wants to have regulations in place to guard against future shipments.

When this was originally announced, former Governor Guinn was opposed to the shipment. Several Legislators, myself included, were opposed to it. The DEP was opposed to it. As we worked through the process, we discovered the Depot could be rehabilitated to adequately store this stockpile. You know how it is when you are dealing with the federal government. You fight as much as you can and make it as safe as possible.

SENATOR LEE:

That was my concern since the bill specifies mercury. Should we change the language to include other hazardous materials?

SENATOR TITUS:

Other hazardous materials are included under the CAPP provisions.

MR. DROZDOFF:

It is an extensive list, and we can provide it to the Committee members ([Exhibit D](#)). I think this legislation demonstrates that the State is going to closely monitor the federal government's actions. We have set a precedent.

SENATOR WASHINGTON:

Do you track the transportation route? If you do, is it publicized?

COLLEEN CRIPPS, PH.D. (Deputy Administrator, Air and Waste Programs, Division of Environmental Protection, State Department of Conservation and Natural Resources):

I am not aware that we track those routes or make them available. We are working with the DOD to evaluate the shipments and make sure the packaging is going to be adequate so that it will be transported safely.

SENATOR WASHINGTON:

Does the federal government disclose the route so that emergency personnel can be prepared?

DR. CRIPPS:

I do not know. We will check and provide you with a response.

SENATOR WASHINGTON:

I believe the routes should be identified so emergency personnel and citizens can be prepared in case there is an accident or a spill.

MR. DROZDOFF:

I am here to express our support for S.B. 118. The handling and storage of large quantities of mercury must be covered under provisions that govern the prevention of accidental chemical releases to the environment. As previously mentioned, the Defense Logistics Agency (DLA) determined that the Depot will be the depository for the mercury stockpile. The DEP believes that appropriate regulatory oversight must be in place to ensure the public and the environment are adequately protected against any potential releases. Consistent with our intent to ensure that we minimize the potential for mercury to be emitted into the environment, last year the DEP moved forward with amendments to the *Nevada Administrative Code* to include mercury as a regulated chemical under the CAPP. As a result of the facility being regulated under the CAPP, the DEP has experienced noteworthy results. The DLA is constructing a fire-suppression system that was not part of the original storage project. Other work is being performed on the existing buildings to bring them within acceptable standards for mercury handling and storage. As Dr. Cripps mentioned, we are also working with the DLA to develop an inspection plan for each container. The DEP requests the quantity be changed to 100 tons, thereby aligning statutory and regulatory language.

SENATOR TITUS:

I am submitting e-mails addressed to the Committee regarding S.B. 118 ([Exhibit E](#)).

KYLE DAVIS (Nevada Conservation League):

We support S.B. 118, and the DEP's amendment changing the quantity to 100 tons.

JANE FELDMAN (Sierra Club):

We support S.B. 118 and I will read from prepared testimony ([Exhibit F](#)).

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 118 BY CHANGING THE QUANTITY FROM 1,000 TONS TO
100 TONS.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR NOLAN:

We will open the hearing on S.B. 106.

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

RAYMOND J. FLYNN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

A representative of the Nevada Commission on Homeland Security (Commission) in southern Nevada will present S.B. 106.

LARRY CASEY (Executive Director, Nevada Commission on Homeland Security):

On behalf of the Commission, I have been asked to present testimony on S.B. 106. The 2003 Legislative Session established a provision for the classification of documents. This provision was extended in the 2005 Legislative Session with the intent that the Commission protect public health and safety by preventing the release of sensitive information. The Commission needs to get restricted or confidential information to certain officials and has crafted specific language identifying these officials. We present an amendment extending the list ([Exhibit G](#)).

SENATOR CARLTON:

This bill extends the date to June 30, 2009. Does the Commission really want to come back or would you like to change that date?

MR. CASEY:

The Senate put a two-year sunset clause in the original bill. Following established custom, we extended S.B. 106 to 2009. The Commission would probably be willing to extend that date if the Legislature approves.

SENATOR CARLTON:

As I recall, we were not sure what direction things were going when we originally established these regulations; therefore, we wanted to periodically

review them. We are at a point where things are operating smoothly. Having the Commission return every two years might not be necessary.

CHAIR NOLAN:

That is a good point. I think that significant legislation occurred in 2003 and we did a lot of clean up in 2005. I believe Mr. Casey should check with the Commission members about extending the date.

GLADE MYLER (Senior Deputy Attorney General, State Emergency Response Commission, Department of Public Safety):

I support S.B. 106 as the Commission Legal Counsel and have assisted in developing this legislation. In the beginning, we did not anticipate that first responders would need these confidential or restricted documents. Now, however, they do need them so they can safely respond.

CHAIR NOLAN:

We can prepare an amendment unless we hear from the Commission that they are opposed to extending the date.

MR. MYLER:

The Commission anticipates receiving some legislation from the federal government, under the Freedom of Information Act, which might be why they used 2009.

MR. FLYNN:

This bill, S.B. 106, updates and reflects the latest tactics, techniques and terminology to assist public safety in its continued effort to fight terrorism. We support this bill.

CHAIR NOLAN:

We have received a proposed amendment from Mr. Casey.

MR. CASEY:

After receiving feedback from the public-health community, the Commission determined they needed to receive this information; therefore, they have been added to the bill.

SENATOR HECK:

Mr. Casey, please extend my thanks to the Commission for recognizing the importance of including public-health agencies in this legislation.

SHAUN E. JILLIONS (City of Henderson):

We are in support of S.B. 106 and offer an amendment to include city emergency managers ([Exhibit H](#)).

SENATOR NOLAN:

This Committee had a similar discussion on another bill. We will check with our Committee Counsel to see if city emergency managers are already included in statute.

SABRA SMITH-NEWBY (Clark County):

Our amendment ([Exhibit I](#)) is similar to the City of Henderson's amendment. It also expands the list to include individuals within the chain of command.

CHAIR NOLAN:

Mr. Casey or Mr. Myler, what is your opinion on these proposed amendments?

MR. MYLER:

I do not object to the City of Henderson's amendment including city emergency managers; however, I would not want to expand the list further.

MR. CASEY:

I agree with Mr. Myler. I do not have a problem including city emergency managers in the list. I do have a concern about expanding the list as suggested by Ms. Smith-Newby.

Chair Nolan:

I would like bring this bill back to the Committee. We will have our Committee Counsel look into Mr. Jillions' proposed amendment. The Committee might have trouble passing Ms. Smith-Newby's proposed amendment.

MS. SMITH-NEWBY:

I have an additional comment. Clark County has the Department of Aviation which handles McCarran International Airport and the Transportation Security Administration (TSA). The TSA has security regulations, procedures, policies and manuals that are deemed sensitive by the TSA. They can only disseminate

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such information to those with a need-to-know at an operational level and as permitted by the TSA. I am not sure if this affects S.B. 106, but I wanted to bring it to the Committee's attention as it may be a case of federal law superseding state law.

CHAIR NOLAN:
Thank you for the information.

CHAIR NOLAN:
We will close the hearing on S.B. 106. There being no further comments or business, this meeting of the Senate Committee on Transportation and Homeland Security is adjourned at 4:42 p.m.

RESPECTFULLY SUBMITTED:

Lynette M. Johnson,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____