

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

**Seventy-Fifth Session
March 23, 2009**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:36 p.m. on Monday, March 23, 2009, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jerry D. Claborn, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman David P. Bobzien
Assemblyman John C. Carpenter
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Judith Coolbaugh, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Peter Krueger, representing the Nevada Emission Tester Council,
Las Vegas, Nevada
Lloyd Nelson, Services Manager, Emissions Program, Compliance
Enforcement Division, Department of Motor Vehicles
Troy Dillard, Administrator, Compliance Enforcement Division,
Department of Motor Vehicles
Charles Moses, Environmental Specialist IV, Environmental Compliance
Branch, Division of Plant Industry, State Department of Agriculture

Vice Chair Hogan:

[Roll was called.] We will take testimony first on Assembly Bill 414, then we will go to a work session on Senate Bill 38 and Senate Bill 39. I am opening the hearing on A.B. 414.

Assembly Bill 414: Makes various changes to the requirements for emissions inspections of certain vehicles. (BDR 40-821)

Assemblyman Jerry D. Claborn, Clark County Assembly District No. 19:

Mr. Krueger will be presenting the testimony on A.B. 414. He has been here to testify many times in the past. Both he and Mr. Nelson are experts on petroleum and weight issues. The way the current law reads there is confusion. For example, if you have two identical trucks, but one of them has dual wheels, you would have to put smog control equipment on it. The other one would not require any smog controls. We will hear from our first witness for an explanation of the seeming conflict.

Peter Krueger, representing the Nevada Emission Tester Council, Las Vegas, Nevada:

The Nevada Emission Tester Council is a group of independently-owned emissions (or smog) stations in Washoe and Clark Counties. I want to thank Mr. Claborn for sponsoring this bill on behalf of another group called the Advisory Committee on the Control of Emissions for Motor Vehicles. This organization meets quarterly. Its membership includes representatives from the Department of Motor Vehicles (DMV), the Department of Environmental Protection (DEP), and the Department of Transportation (DOT). Two

representatives come from each Bureau of Air Pollution Control (BAPC) in Washoe and Clark Counties. I am not a member of the committee, but I attend the meetings as an interested citizen. The meetings give the stakeholders of the various agencies an opportunity to discuss the state's smog program.

Two problems with current vehicle smog standards have been identified. The three-quarter ton pickup truck is now being manufactured with increased vehicle weight. It has become heavier, and now weighs over 10,000 pounds, and is approaching 14,000 pounds in weight. Mr. Nelson will testify on the technical details, and he will explain why a change in the statute is necessary. The bill also cleans up some "housekeeping" issues relating to the emission control program and compliance enforcement through the DMV. It is an excellent bill, and there is no opposition to it. The bill will extend the emission testing requirement to the new heavier pickup trucks which are currently not tested in the existing weight gap between 10,000 and 14,000 pounds. The change will take place only in Washoe and Clark Counties.

Lloyd Nelson, Services Manager, Emissions Program, Compliance Enforcement Division, Department of Motor Vehicles:

[Read from prepared testimony submitted in writing ([Exhibit C](#)).]

Vice Chair Hogan:

Are there any questions?

Assemblyman Segerblom:

The additional emission testing is only for the heavier vehicles. Is that correct?

Lloyd Nelson:

Yes, diesel vehicles from 10,001 to 14,000 pounds are actually the problem right now.

Assemblyman Segerblom:

Since it might be easier to equip private automobiles with this new onboard diagnostic equipment (ODE) for automatic emission monitoring then to take them in every year for smog testing, can cars be included in the new program?

Lloyd Nelson:

Are you referring to section 1?

Assemblyman Segerblom:

Yes, that is correct.

Lloyd Nelson:

Yes, that is true. Any vehicle, whether it is a car or a truck under 8,500 pounds manufacturer's gross vehicle weight, can use this new ODE technology. Right now the equipment is geared towards large vehicle fleets because of the initial cost to purchase and install the devices. Further, some of the devices require a centralized receiver location to intercept and analyze the incoming data. It could be done for private motorists' vehicles, but currently, the program is set up to accommodate large vehicle fleets.

Assemblyman Segerblom:

Are you in charge of motor vehicle inspections for the state?

Lloyd Nelson:

I am a DMV Services Manager, and I primarily handle vehicle licensing.

Assemblyman Segerblom:

Newer vehicles are exempted from smog testing in the first year. Since 99.9 percent of the vehicles tested in the second year pass the emission test, is there any way we can waive that second year smog testing requirement?

Lloyd Nelson:

That would be a question that should be answered by the DEP at the county level because the state implementation plans have already been submitted to the United States Environmental Protection Agency (EPA). We would have to keep the first year only exemption right now.

Assemblyman Aizley:

What safeguards will be in place to ensure that vehicles, intentionally registered in other counties, but primarily driven in Washoe and Clark Counties, are monitored? Is there any oversight to prevent this problem from developing?

Lloyd Nelson:

An affidavit is required that states the vehicle is being used primarily in another county from the one in which it is registered. It further states, that once that vehicle is brought back into Washoe or Clark Counties, the vehicle must have an emission test. We do random follow-ups on the affidavits.

Assemblyman Aizley:

I was asking about a car that is not registered in Washoe and Clark Counties, but is used primarily in those counties, what safeguards are in place to prevent this problem?

Peter Krueger:

The DMV and the Washoe and Clark Counties' BAPC are aware of potential fraud in that area, and it does occur. However, there is an aggressive program for follow-up on vehicles that are observably not meeting emission control standards. Many times, people report "smoking" vehicles. It is an enforcement issue that receives attention, and reports are followed-up. When you register a vehicle, you also certify by zip code the location of the registered vehicle.

Vice Chair Hogan:

Are there further questions?

Assemblyman Ohrenschall:

I have a hypothetical question. If Nevada ever switched from federal EPA standards to California emission standards would this ODE technology still work?

Lloyd Nelson:

Yes, the new ODE devices will work on California certified vehicles.

Vice Chair Hogan:

Are there further questions? We have some other people who wish to provide testimony.

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

I was not planning on speaking, but I would be happy to answer any policy questions.

Vice Chair Hogan:

Are there any questions?

Assemblyman Claborn:

What is a "reconstructed" vehicle mentioned in section 3, subsection 2 (a)?

Troy Dillard:

A "reconstructed" vehicle is one which is built with pieces and parts from many different car years. It must be certified, by a garage or body shop, to determine if it meets the specifications and requirements for safety and road ability.

Assemblyman Claborn:

What is a "trimobile" mentioned in section 3, subsection 2 (b)? Is it a vehicle with one wheel in the front and two in the back?

Troy Dillard:

Yes, that is correct.

Assemblyman Claborn:

Regardless of the type of engine, if the trimobile is less than 1,400 pounds, it would not require smog controls. Is that correct?

Troy Dillard:

The change requested in this bill is based on the federal standards delineated in the *Code of Federal Regulations* (CFR) which establishes the parameters for determining if a vehicle is a motorcycle. It is not based on the vehicle's engine, but on the actual curb weight of the vehicle. When a trimobile is presented for testing, it may have a non-ODE compliant vehicle engine because the CFR designates that the vehicle is a motorcycle. Currently, there is no set testing standard, so the trimobile with a vehicle engine cannot be tested. That is the problem we are having right now with the program.

Assemblyman Claborn:

How do you determine whether or not a vehicle requires smog testing?

Troy Dillard:

Weight determines whether or not smog testing is required. By definition, a trimobile is a three wheel vehicle with one rear wheel powered. Its designation or class—vehicle or motorcycle—is determined by its curb weight.

Assemblyman Claborn:

Is the curb weight requirement 1,400 pounds?

Troy Dillard:

It is a federal code, so it is not that simple. It is based upon the year manufactured and the weight. There are two different standards depending on the age of the vehicle. I believe in 1997 the standard went to a heavier vehicle weight. Mr. Nelson can clarify that information.

Lloyd Nelson:

In the CFR, Title 40, Part 86, the code states trimobile /motorcycle classification is based on weight. For model years 1978 through 1997, anything, 1,499 pounds or less, is classified as a motorcycle. If the trimobile or motorcycle's model year is 1998 or newer, and it is 1,749 pounds or less, it is considered a motorcycle. Trimobile vehicles, manufactured from 1978 to 1997 and weighing 1,500 pounds or heavier, or those manufactured from 1998 or newer and weighing 1,750 pounds or heavier, would be subject to emission testing.

Assemblyman Claborn:

If someone builds a trimobile, are they required to take it to the DMV to determine the vehicle weight? Does the DMV or the BAPC agency certify the weight to determine if smog testing is required for vehicle registration?

Lloyd Nelson:

Many of the DMV offices no longer have a weight scale. Therefore, a person would determine the vehicle weight by taking it to a private weigh master. Then, the vehicle classification could be determined.

Assemblyman Claborn:

How does the DMV determine the model year?

Lloyd Nelson:

If the vehicle has previous registration documents, those documents are accessed to determine the year the vehicle was first built. If it is a brand new homemade trimobile, application is made for first-time registration. The motorist completes an assembled vehicle form to establish the model year which will be the year of first registration.

Assemblyman Claborn:

Does the vehicle weight have to be provided if it is a brand new homemade trimobile? Would the vehicle be registered as an automobile or a trimobile?

Troy Dillard:

If a person builds the vehicle himself, it is classified as an assembled vehicle, and the laws governing assembled vehicles would be applicable. It is the owner's responsibility to provide all of the required documents indicating the vehicle meets weight, safety, and road operational requirements. If it is classed as an assembled vehicle, it would have to be in ODE compliance for the year in which it was first registered. If the assembled vehicle is classified as a trimobile, it would be treated under the trimobile rules which determine eligibility for emission testing based on the vehicle's weight. If this bill is passed, a trimobile may not be included under current emission testing requirements.

Assemblyman Claborn:

Your clarification was required because I wanted to ensure the information is on the record.

Vice Chair Hogan:

We have some questions.

Assemblyman Goicoechea:

Is the DMV's \$6.00 fee for emission testing the only charge?

Troy Dillard:

Yes, that is correct. The emission testing stations purchase search time from the DMV at \$6.00 per vehicle. The cost is passed-through to the consumer when his vehicle is tested. The \$6.00 fee is an annual DMV participation charge to be in the program. There is no cost increase to the consumer.

Assemblyman Goicoechea:

The testing station would still receive a fee for plugging the vehicle into the testing equipment to read the ODE. Is that correct?

Troy Dillard:

No, the testing stations are not involved with the ODE technology. There are three primary ODE technologies used today. One method for tracking emission test data operates from a cell phone base. Many fleets use this type of equipment to manage fuel costs, mileage, speed, and idling time. It is a fleet management tool which can also record emission compliance data. This information can be reported to the DMV to ensure the vehicles are meeting emission standards. It is better technology than Nevada's current program which only involves a single annual static test instead of continuous monitoring.

Assemblyman Goicoechea:

Does the DMV or the EPA notify the vehicle owner if the vehicle is not in compliance?

Troy Dillard:

The DMV notifies the owner. We are currently operating a pilot program with some public and private vehicle fleets to determine what the strong points would be, and to evaluate how the program would work. This change in the law's language simply gives the DMV future authority. Regulations will be used to set the guidelines.

Assemblyman Carpenter:

How many vehicles would be added to those requiring emission controls testing by the weight requirement change?

Lloyd Nelson:

It would be 9,500 vehicles.

Vice Chair Hogan:

Are there any more questions?

Assemblyman Goicoechea:

The 9,500 figure refers to those vehicles moving into the 10,000 to 14,000 pounds gross vehicle weight category. It is not the number of vehicles that can use the new ODE technology. Is that correct?

Troy Dillard:

Yes, that is correct.

Vice Chair Hogan:

Is there anyone else who would like to testify for or against the bill? Is there anyone who would like to testify from a neutral position? [There was none.] I am closing the hearing on A.B. 414.

[Mr. Claborn resumed the chair.]

Chair Claborn:

I am opening a work session, and I am opening the hearing on Senate Bill 38. Our Policy Analyst will "walk" us through the bill. When S.B. 38 was originally heard by this Committee, there was no opposition to it, and there were no proposed amendments to the language. A copy of the work session document for S.B. 38 ([Exhibit D](#)) has been distributed to the Committee.

Senate Bill 38: Revises the period of validity of certificates to apply restricted-use pesticides. (BDR 49-355)

Jennifer Ruedy, Committee Policy Analyst:

This bill "changes the expiration date of certificates authorizing the application of or supervision of the application of restricted-use pesticides from the end of the fourth calendar year after issuance to four years after the date of issuance." The Department of Agriculture (DOA) presented this bill as a "housekeeping" bill, and a representative of the DOA is here to answer any questions.

Chair Claborn:

Are there any questions?

Assemblyman Aizley:

The language states four years "after," but it does not say four years "immediately after" the date of issuance. What will be the date of expiration?

**Charles Moses, Environmental Specialist IV, Environmental Compliance Branch,
Division of Plant Industry, State Department of Agriculture:**

This bill will change the date from a calendar year on a four-year recertification cycle to a cycle that begins four years immediately after the first issuance date of the certificate. This change in language would permit a "true" four-year recertification cycle.

Assemblyman Aizley:

The language does not contain the word, "immediately."

Charles Moses:

Our intent is to specify that the cycle would begin four years immediately after the person certifies for the first time or recertifies.

Assemblyman Aizley:

I am referring to the language in section 1, subsection 2 that states: "A certificate is valid for four years after the date it is issued." I think the word "immediately" should be included to avoid misinterpretation.

Charles Moses:

I have to agree, but I am not sure how the language needs to be worded to accurately reflect the intent of the law. If the Committee feels a change is necessary, I would be willing to make that change to clarify the intent.

Chair Claborn:

Our Legal Analyst is not here today.

Assemblyman Gustavson:

I believe even though the word "immediately" is not stated, the intent is on that date four years hence. This same wording appears elsewhere in statute.

Chair Claborn:

We are going to hold this bill until we can get an answer. Are there any more questions? [There were none.] I am closing the hearing on S.B. 38, and opening the hearing on Senate Bill 39. A copy of the work session document for S.B. 39 ([Exhibit E](#)) has been distributed to the Committee.

Senate Bill 39: Eliminates the requirement that the State Department of Agriculture provide annual proposed programs for the control of invasive species and certain endemic pests and weeds to counties. (BDR 50-356)

Jennifer Ruedy, Committee Policy Analyst:

The bill's summary states the following:

This bill eliminates the requirement of the State Department of Agriculture to present annually to each board of county commissioners proposed programs for the exclusion, detection and control of invasive species and endemic pests and weeds designated by the Director of the Department that involve cooperative action between the Department and the county.

There were no amendments offered at the original hearing on this bill.

Chair Claborn:

Are there any questions? [There were none.] I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE BILL 39.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BOBZIEN WAS ABSENT
FOR THE VOTE.)

Assemblyman Gustavson will present the bill on the Floor. Is there any public comment? [There was none.]

The meeting is adjourned [at 2:12 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblyman Jerry D. Claborn, Chair

DATE: _____

EXHIBITS

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

Date: March 23, 2009

Time of Meeting: 1:36 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 414	C	Lloyd Nelson	Testimony
S.B. 38	D	Jennifer Ruedy	Work Session Documents
S.B. 39	E	Jennifer Ruedy	Work Session Documents