

**MINUTES OF THE  
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND  
TRANSPORTATION**

**Seventy-fifth Session  
April 22, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 9:15 a.m. on Wednesday, April 22, 2009, in Room 2135 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 Michael A. Schneider, Chair  
Senator Maggie Carlton, Vice Chair  
Senator John J. Lee  
Senator Shirley A. Breeden  
Senator Randolph Townsend  
Senator Barbara K. Cegavske  
Senator Dennis Nolan

**GUEST LEGISLATORS PRESENT:**

Assemblyman Kelvin Atkinson, Assembly District No. 17

**STAFF MEMBERS PRESENT:**

Matt Nichols, Committee Counsel  
Scott Young, Committee Policy Analyst  
Laura Adler, Committee Secretary

**OTHERS PRESENT:**

Buzz Harris, Nevada Highway Users Coalition  
Lesley Pittman, Nevada Rental Car Group  
Scott M. Craigie, Farmers Insurance Group  
Mandy Murphy, Enterprise Rent-A-Car

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CHAIR SCHNEIDER:  
We will open with Assembly Bill (A.B.) 503.

[ASSEMBLY BILL 503 \(1st Reprint\)](#): Creates an advisory committee to develop recommendations for the funding of highways in this State. (BDR S-954)

ASSEMBLYMAN KELVIN ATKINSON (Assembly District No. 17):

This bill creates an advisory committee to develop recommendations for increased funding for highways in Nevada. This would be submitted to the voters in the 2010 General Election for approval. It is important to have the citizens of Nevada approve new types of funding for the State's transportation projects. You may recall in the last Session, the Assembly Committee on Transportation and your Committee worked hard and heard testimony from a variety of people on the importance of increasing funding for, and continued investing in, our State's highway system. State transportation revenues are still not keeping pace with escalating construction costs and the needs of the Nevada Department of Transportation which estimates that in 2016 there may be a shortfall of as high as \$6 billion to fund our highway transportation projects. We must remember that our transportation system impacts our quality of life. We must continue to make it a priority to invest in our transportation infrastructure in order to support our community and economic activities.

This bill proposes to create an advisory committee consisting of six members: three appointed by the Speaker of the Assembly and three appointed by the Majority Leader of the Senate. Not more than one member of each house can serve on the committee. The remaining four members will be appointed from the general public. The proposed advisory committee is modeled after similar committees created under S.B. No. 154 of the 74th Session, which created the Washoe County Schools Construction and Revitalization Advisory Committee. That committee made recommendations for the acquisition of taxes to fund capital projects for the Washoe County School District. It required the Board of Commissioners to impose those taxes only if the voters in that county voted for that tax in the 2008 General Election. The advisory committee developed the ballot questions during the interim. Ultimately, the 2008 General Election voters opposed the ballot question and it lost 54 percent to 45 percent. No recommendations made by the advisory committee were pursued by the Legislature. In the case of this bill, that could happen. At this point, we felt it was necessary to ask voters how they want to pay for their roads in the future.

If you recall, at the end of last Session we had a bill that made it out of the Assembly at the last minute that looked at some of the questions in A.B. 503. That bill did not make it out of the Senate. This is an attempt to accomplish what we wanted to do last Session. Money is tight and we are projected to have close to a \$3-billion shortfall this time. We are struggling to find a way to get money for transportation. We do not have money for education, for health and for a lot of essential things. Instead of telling the voters how we are going to tax them for transportation, we want to ask them.

CHAIR SCHNEIDER:

This is a great attempt. This Committee has discussed some of the problems we have with funding. It is going to get worse in the future, not better, as cars get better mileage. It is like this Chrysler car that will cost 2 cents a mile to operate. It is plug-in electric and uses no gasoline, so there is no gas tax. People will be driving more miles and paying less tax, because of better mileage or no need for gas as we move to electric vehicles.

ASSEMBLYMAN ATKINSON:

Electric cars will be doing the same type of damage to the roads.

CHAIR SCHNEIDER:

Absolutely. They will be driving more miles. We do need to do something.

SENATOR CARLTON:

This advisory committee will just be discussing construction and maintenance of highways. Will there be discussion of mass transit or alternatives to the traditional highway system?

ASSEMBLYMAN ATKINSON:

That was not part of it. I see this as twofold, as you do. Mass transit does need to be part of our daily discussion and definitely needs to be discussed in this State. It is a big part of what I would like to discuss. But in this bill, we are talking about construction and highway transportation needs. I am definitely open for mass transit as well. I know Senator Schneider has something he is addressing that I want to be a part of, but I did not include any of that in A.B. 503.

SENATOR CARLTON:

The appointments to this advisory committee come from the Senate Majority Leader and the Speaker of the Assembly. In the past, we have had the minority party members from each house represented also. Coming fresh from the minority party for most of my career, I wonder if there is a particular reason why we did not appoint from both houses. Many committees have one member from the majority party and one from the minority party. Has there been any discussion of that?

ASSEMBLYMAN ATKINSON:

No discussion. What I was attempting to do was to not have the advisory committee loaded with Legislators. If we did that, then we are talking about one-fourth to one-sixth of the members being Legislators. From my perspective and others, we did not want to have more Legislators than citizens. If we increased it, then there would possibly be eight to ten members, and then it becomes too big. I wanted the citizens to dominate the discussion on transportation, so when it does go to the voters, it is not viewed as the Legislators putting the question on the ballot, because they do not want to make the tough decisions.

SENATOR CARLTON:

This is a good idea to put these issues on the ballot. It would be a smart way to lay out to the public a scenario that states if you decide to fund highways at this level, this is what you would get, and if at this level, this is what you would get. Have the voters make the choice of what they want so they understand each dollar they contribute does get them something in the long run. It is not just money going into a hole and coming back out. The voters can say this is what they will support and it gives them the understanding of where the gas tax is going. It is a good idea to inform them and have it be advisory, because there may be things that still need to be done. We cannot tie our hands, because we do not know what the world will look like in two to four years.

CHAIR SCHNEIDER:

Senator Carlton has a good idea in getting the public more involved and more educated. The public wants a first-class educational system and also want their taxes cut, and these goals do not go together. The public wants first-class highways and a light-rail system, and "oh, by the way, cut my taxes."

SENATOR CEGAVSKE:

In the bill's digest, it says the advisory committee consists of six members, three appointed by the Majority Leader of the Senate and three appointed by the Speaker of the Assembly. I was wondering why it would not be the majority party and minority party of each House; that is what we usually did with the leadership. What you addressed is that there could only be one member of each house on the advisory committee. Would that be something you would consider changing?

ASSEMBLYMAN ATKINSON:

Maybe I am being naive or maybe I was thinking the Majority Leader and the Speaker would consult with the minority party. If you would like to make it stronger, I am neutral. I know in the Assembly we consult with our Minority Leader, Assemblywoman Heidi Gansert, if there was a suggestion from the community or the State. I am almost certain that would happen on our side, but if you are not confident that it would, I do not mind the change.

SENATOR CEGAVSKE:

We have done it for so long that it has always been the mixture of the two. In this Session, it seems it has been the majority of both. That is why I was questioning the makeup of the advisory committee. I have not sat on a transportation committee since I was in the Assembly and I am glad to learn more and see the changes. I would like to know about the various councils, committees and commissions and what they do. If this bill passes, then how do we compress and get them all together? I do not want duplication or different groups that are advising or looking at the road projects. Again, I am not the expert on this, but it would be helpful if there could be collaboration with those other groups also looking into solutions to highway funding and other transportation issues in Nevada.

ASSEMBLYMAN ATKINSON:

I think we are talking about two different things. What the other committees have come up with is totally different from this advisory committee. The other commissions and committees are not asking the voters how they want to fund roads. They are coming up with their own recommendations on what we should do as a State and what we should do as a community with respect to roads. This advisory committee would actually come up with a ballot question.

SENATOR CEGAVSKE:

I do understand what you are asking with the bill. What I am asking is gathering and compiling all the information from the various groups that have made recommendations. I would like to know who they are and what they have done, because it all goes together. I do understand what you want to do, and I am looking at how we can gather all that information together.

SENATOR LEE:

I see the point about too many Legislators on a committee. I wonder about having county commissioners. In the south, if we say we want more roads, and it is a statewide initiative or ballot question, and voters in the other 16 counties say they do not want more roads, then the south cannot have what they want. Do you think it would be wise to have an advisory committee for counties over 400,000 population make those decisions for their county, and counties of a 100,000 population make decisions for their counties? This way, the people in the north are not telling the people in the south who need and want more roads, that there will be no taxes for roads. It would be the south asking the north to allow them to do it. If this were a regional committee that could take care of the south, then they would have better representation. I see your point, we are growing. I would hate for us to do this and find out that White Pine County said, no, and Clark County was held back on growth and mass transit. I would like to work with you to get this passed, and when we do get it passed, it is beneficial for the areas that do want to do this. If Washoe County does not want to do it, that would not affect what is being done in the southern part of the State. I would like good participation for good results.

ASSEMBLYMAN ATKINSON:

It sounds like there are two different questions. One question would be asked of the counties with a population of less than 100,000, and another question asked of Clark County, because that is who we are talking about that has over a 400,000 population. I am not sure if we can do two different ballots; we will have to ask.

CHAIR SCHNEIDER:

Instead of a statewide ballot initiative for highways, we could do as Senator Lee proposed and regionalize the ballot initiatives. To regionalize or not is something this Committee could work on if we pass this bill forward.

SENATOR CARLTON:

It does say, "each question," on page 3, line 4.

BUZZ HARRIS (Nevada Highway Users Coalition):

This organization came about last Session and we are in support of A.B. 503. We all understand the financial challenges we have in this State and the need for transportation and funding. During the last election cycle, we put together a coalition in Washoe County. Two ballot questions came out on regional transportation directed by the Washoe County Board of Commissioners. One question was on mass transit; the other was on funding roads and that was indexed into the gas tax, which is Senate Bill (S.B.) 201. There was a division of ballot questions and that fits the discussion here on mass transit and the other on roads and highways. We are in support of this issue and in educating a committee who will go to the people. Many people do not understand that it takes 8 to 10 years to build a road, including getting the right-of-way and the costs that go into it. The other issue is on electric cars and who is going to pay for these roads. We all want a good quality of life and to be able to get to our destinations and move commerce.

**SENATE BILL 201**: Authorizes certain counties to impose additional taxes on fuels for motor vehicles. (BDR 32-233)

CHAIR SCHNEIDER:

Seeing no one else to testify, we will close the hearing on A.B. 503 and go into the work session starting with A.B. 21.

**ASSEMBLY BILL 21 (1st Reprint)**: Revises provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles. (BDR 43-437)

Committee, you may remember this bill was amended into Senator Mathews' bill, S.B. 312, that passed out of this Committee on April 10. Senator Hardy testified on S.B. 312, suggesting an oral amendment to add a field process to uninsured motorist citation actions relating to his daughter insuring her car while in Utah. In checking with Senator Hardy, he did not want to move forward with an amendment, therefore A.B. 21 is effectively processed by Amendment No. 486 to S.B. 312. Unless the Committee has any other need for the bill, it could be indefinitely postponed or left to expire on May 15, if not germane.

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[SENATE BILL 312 \(1st Reprint\)](#): Revises provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles. (BDR 43-286)

SENATOR CARLTON:  
Just leave it.

CHAIR SCHNEIDER:  
All right, we will leave it. We will move to A.B. 28.

[ASSEMBLY BILL 28](#): Revises provisions governing hearings conducted by the Department of Motor Vehicles. (BDR 43-341)

CHAIR SCHNEIDER:  
There are no proposed amendments. The bill is ready for Committee action.

SENATOR CEGAVSKE MOVED TO DO PASS A.B. 28.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:  
We will hear A.B. 177.

[ASSEMBLY BILL 177 \(1st Reprint\)](#): Revises provisions concerning short-term leases of passenger cars. (BDR 43-194)

The Nevada Rental Car Group has presented an amendment to the bill ([Exhibit C](#)). The new amendment increases the cap on the recovery the car-rental company can collect from the lessee for vandalism, if the lessee does not opt for the collision-damage waiver. They want to increase that cap from \$500 to \$2,500. Also, the amendment changes the effective date from October 1 to July 1.



SENATOR CARLTON:

Is the theft portion the key issue?

LESLEY PITTMAN (Nevada Rental Car Group):

The amendment we proposed at the previous hearing on the bill has been discarded. This is a replacement amendment.

SENATOR CARLTON:

This is a total replacement, so the theft issue is now gone?

Ms. PITTMAN:

The theft issue is still in the original bill. The prior amendment has been removed. We had originally sought to eliminate the vandalism-damages cap in its entirety.

SENATOR CARLTON:

We are working from the first reprint. The first issue I remember is the presumed guilt if you do not have the keys of the vehicle to turn in. We discussed what the definition of keys would be. Is there now proposed language to clarify keys?

Ms. PITTMAN:

There is not. We spoke with people in the industry about your concerns and struggled to find language that would accommodate keys without opening potential loopholes. The challenge exists if you were to present a valet ticket to show proof that the vehicle was not in your possession at the time it was stolen. Any person with the keys could reproduce a valet ticket or simply pick one up off the ground and claim it as their valet ticket.

SENATOR CARLTON:

Oh, they are stretching. If you turn in documentation, then you should not be presumed guilty and have to prove your innocence. That is contrary to what we should be basing these decisions on. I understand the problem. It is unfortunate that people rent cars and then steal them or leave them in another state or country or chop them up into pieces. I understand that we are paying for that. In essence, this language is saying lessees are guilty until they prove themselves innocent. We had a good discussion about this issue during the previous Committee meeting. I pay my premiums for the insurance company's lawyers to defend me. I should not have to do that.

SCOTT M. CRAIGIE (Farmers Insurance Group):

It might be worthwhile for us to walk through the new language in the bill and point out each step that outlines when the conduct of a renter—a person who rents one of these vehicles and has control of it—does something that is not correct. Then we can judge the opportunity the driver had and judge the responsibility the car-rental company has.

On page 2, subsection 4 of section 5, of the bill it says, "Damage or loss resulting from the theft of the passenger car if committed by an authorized driver or a person aided or abetted by an authorized driver. A theft is presumed to have been committed ..." Now jump down to lines 29 and 30, "if the short-term lessee of the car ..." Here are the conditions: "(a) Has possession of the ignition key furnished by the lessor or establishes that the ignition key furnished by the lessor was not in the car at the time of the theft ...." That is a standard that this person who rented the car is held to. Continuing, "(b) Files an official report of the theft with an appropriate law enforcement agency within 24 hours after learning of the theft and cooperates ..." Then go down to line 38, "The lessor may rebut the presumption set forth ... by establishing that an authorized driver committed or aided and abetted another person in the commission of the theft."

Basically, the bill lays out three simple standards. There have been situations, for example at hotels where a person has a rent-a-car and gives the keys to the valet and goes in. They come back later and the car is gone. Obviously, there needs to be a line of control. In the past, there has not actually been an assignment of who has which responsibilities in these situations. A person is driving a car and the spouse says, pull over, honey, you have had way too much to drink. This situation again lays out where various responsibilities are.

I know everyone knows this, but I am going to say it for the record. When people come to destination resorts in Nevada, especially Las Vegas and Reno, we do everything we can to make everybody comfortable. We are the hospitality center of the world. At the same time, there are situations where that driver hands that key to somebody and the car disappears. The driver has the responsibility of cooperating fully with the law enforcement officials so that those lines of responsibility are drawn, and the cooperative efforts, if you will, of all Nevadans to know what their responsibilities are when they are working with these rental drivers. Maybe it is overkill. If overkill is what it is, it is

probably still worthwhile so that everybody knows their role. That is what this package proposes and I think it is reasonable.

SENATOR LEE:

Motor vehicle usually defines personal trucks and passenger cars. I am thinking of other industries like the rent-a-Harley. Motorcycles are motor vehicles. Is this something that industry would be interested in, as it is just as likely a motorcycle could be stolen? While the bill is still open, could we add and protect those renters also?

MS. PITTMAN:

We did not have conversations with other industries that provide rentals of other types of vehicles, whether motorcycles or Segways. Is that what you are referencing?

SENATOR LEE:

Yes.

CHAIR SCHNEIDER:

Under disclosure, my insurance is Farmers, and Farmers Insurance tells me that the wording in here is proper under subsection 4, of section 5, lines 25-40. I could rent a car and waive their insurance of \$25 a day because I have a rider on my policy that says I am covered when I rent a car.

Mr. Craigie, what you are saying is Farmers Insurance says this is okay and I am insured and going through these steps, I am totally covered. My insurance covers it if there is loss, the car is stolen, the car is keyed or whatever happens to the car. I would notify my insurer of loss or damage, notify the car-rental company and the police and my insurance steps up and takes care of it.

MR. CRAIGIE:

It would be your burden to make sure the insurance policy you have actually gives you that provision. Many people who travel have that provision. I have that on my insurance. Once you are certain your insurance is in place for you, the scenario you described would work.

MS. PITTMAN:

Those provisions are already in statute. If you opt to not go the route of a collision-damage waiver and you opt to go with your own insurance, those two provisions already exist in statute; you need to demonstrate you are cooperating with law enforcement and you have the keys. We are trying to put that under the collision-damage waiver.

CHAIR SCHNEIDER:

Under my Farmers Insurance, if I waive the collision-damage coverage from the car-rental company, I am still covered if I have the rider on my policy. Farmers Insurance is saying the amendment is what they are looking for also. Is that correct?

MR. CRAIGIE:

It is in place as it is. To the extent that the person who is doing the renting understands and that it is in their policy, then, yes, you are correct.

SENATOR CARLTON:

Even if I buy the loss-damage waiver, if this happens, the loss-damage waiver would no longer apply to this. If you look under section 5 of this bill and Nevada Revised Statutes (NRS) 482.31555, these are all the things that are not included in your loss-damage waiver any more. When I purchase that insurance to cover myself or the State so they are not liable for that car, if something happens to that car, they cannot charge the fee for that car every day it is not available. If this happens to you, even though you have purchased the coverage, this will no longer apply. You personally, or your insurance company, will be held financially responsible for every day that car is not on the road. This is an exemption to the loss-damage waiver.

MR. CRAIGIE:

At this point, I would like to make sure we are all on the same page.

SENATOR CARLTON:

Am I right on that?

MR. CRAIGIE:

Actually, that is not how I have always interpreted it. Before I sign off on that and leave a mistake behind when we are at the end of a Legislative Session, I want to come back. If what you are describing is correct, then I am incorrect

in the way I am managing my rental cars as a customer. I have believed all along that is the right thing to do and I was always covered. It would be prudent for all of us to make sure we are all on the same page. I believe it is going to come back per your question, Mister Chair; it comes back the way you described it as well. I think it is best for us, including my future here, to make sure we have the right answer.

CHAIR SCHNEIDER:

Is it correct that if a car is stolen, you are presumed innocent unless the lessor may rebut the presumption of your innocence, and they have to prove you stole the car and you still had the key? You are presumed innocent unless the insurance company rebuts that. That would be hard. You would have to be blatant, or they could not prove it.

MR. CRAIGIE:

I am sure the position I am taking is correct. Again, to make sure we are all comfortable, I would make sure we are straight on that issue.

MATT NICHOLS (Committee Counsel):

Mr. Chairman, my understanding of how this section operates is that if a renter purchases the waiver of damages as a component of the rental agreement and the vehicle is stolen; if there is proof that the renter of the vehicle stole the vehicle or aided or abetted in the theft of the vehicle, then the waiver of damages would not apply. So, you cannot ... You can't insure against your own theft of the car. And the presumption that we are talking about with the possession of the keys or that the keys were not in the ignition is to establish a presumption that the renter of the vehicle did not play a role in the theft of the vehicle. We are not establishing anyone's guilt. It's just a presumption at the outset that if the renter has the keys or can establish that the keys were not in the vehicle's ignition when the car was stolen, that they didn't have a role in it. It doesn't establish that renter didn't, in some way, aid in the theft, but it also doesn't establish that the renter did aid in the theft of the vehicle. It is simply presumption at the outset. It could be rebutted, but it doesn't establish any guilt on the part of the renter.

CHAIR SCHNEIDER:

Senator Carlton, read the line that is confusing you to Mr. Nichols.

SENATOR CARLTON:

It is all the double-negatives. When I originally read the bill and the scenario was described to me that a theft is presumed to have been committed by a person other than the authorized driver or a person aided or abetted by the authorized driver, if the short-term lessee of the car has possession of the keys. So, if you have the keys, you are okay. But if you do not have the keys, you are presumed guilty. That is the stumbling block I ran into, because there are times when you do not have the keys.

MR. NICHOLS:

I don't know if I can clarify. I don't read this to be a presumption of guilt for the renter if they don't have the keys. There are two options here: One, you can furnish the keys to the rental company or you can establish by any reasonable means proof that you did not leave the keys in the car. But in either event, this doesn't establish any sort of guilt or liability for the renter of the vehicle. This is just at the outset. If you can return the keys to the rental company, they can't say you stole the car at the outset. I mean, they may be able to come back at some point with additional proof to establish, yes, you have keys but you also allowed the thief to make a copy of the key, or something like that. But, there is no guilt established on the part of the renter at the outset. The witness from Farmers Insurance is correct that the language in subsection 4 is in existing law now, in the provisions that relate to the car insurance agreement. So, this is a duplication of language that's in existing law now. So, if it is an issue, we'll have to revisit it in another place in statute as well.

CHAIR SCHNEIDER:

Let us say Senator Lee parks in front of Starbucks on a 110-degree day in Las Vegas, and runs in to get a double latte, leaving the rental car running, and he comes out to find the car is gone. What then?

MR. NICHOLS:

He is going to have trouble, I think, because he is not going to be able to return the keys to Enterprise, and he's also not going to be able to truthfully explain to them that he didn't leave the keys in the ignition. So, the fact that he purchased the damage waiver is not going to ensure against the carelessness of leaving the keys in the ignition. Now, if he had the keys in his pocket, but left the car unlocked, and someone took the car, he can return the key to Enterprise and say, look, I didn't steal the car, here are the keys, someone took it from the parking lot. If he were asleep in his hotel room and the keys were stolen out of his room while he was asleep or he left them in there while he went out to, well, I guess he probably doesn't gamble, but if ... so, he couldn't produce the key when he goes back to Enterprise and says, my car was stolen and I don't have the key. But he can explain the circumstances under which the key was misplaced or taken; they're not going to be able to presume, at that point, that he stole the car, so he wouldn't on the outset have any liability at that point. The collision-damage waiver would still protect him, or it should. I am not sure they wouldn't try and litigate that with his insurance company, but it should protect him.

SENATOR CARLTON:

By exempting this provision from the loss-damage waiver, the rental fees could keep accruing on this vehicle until this is settled. By exempting this from the loss-damage waiver—what the loss-damage waiver covers you for—my understanding is that if something happens to the car and the vehicle is not on the road, the person has to pick up the cost for that vehicle not generating revenue at that time. So those fees can be accruing through this whole scenario.

MR. NICHOLS:

"Senator Carlton, I don't believe the fees would accrue to the renter under the circumstances where Senator Lee did not leave the key in the ignition. Under any other circumstances ..."

SENATOR CARLTON:

I am just talking about this.

MR. NICHOLS:

"Right. Understood. I'm going to defer to the car-rental company to explain to you how they would try and assess the fees against a renter under these circumstances."

MANDY MURPHY (Enterprise Rent-A-Car):

Senator Carlton, would you care to ask that question one more time so I can clearly understand it?

SENATOR CARLTON:

Okay, let us go back to square one, loss-damage waiver. When I purchase the loss-damage waiver at the counter, it covers me should something happen to the car and the car is not generating revenue. I do not get stuck for the fees for that car not generating revenue. Is that correct?

MS. MURPHY:

A portion of it, yes. For the most part, that collision-damage waiver covers your responsibility for the vehicle, regardless of fault.

SENATOR CARLTON:

Collision-damage waiver or loss damage or are they the same?

MS. MURPHY:

Yes.

SENATOR CARLTON:

We are talking about the same thing, then? Okay, collision-damage waiver. So, if the car gets smacked through no fault of my own, it is off the road and I did not buy that waiver, I could end up being charged for the days that car is not generating revenue, but with the purchase of that waiver I am not charged that.

MS. MURPHY:

Depending on your personal insurance policy, yes. Your personal insurance policy—depending on the agreement that the car-rental company has with your insurance carrier—would determine whether or not you would be held responsible for what is called "loss of use." As the representative from Farmers Insurance said earlier, we rely on the customer to know what their policy states and what they would be held responsible for.



SENATOR CARLTON:

I believe that is the reason why most people purchase that coverage. They want to make sure they do not end up bearing the burden of the daily cost for three or four days. That way, they are absolved of any unforeseen incident that happens. Getting the coverage may help to make sure yours or your employer's insurance does not get dinged when traveling for business. Enterprise may or may not have an agreement with my insurance company, and because I am never sure what my car insurance covers, I always purchase their coverage in case something happens, because if it can, it probably will. During the last Legislative Session, while sitting at an intersection, I got smacked, it just happened, but I had that coverage and was not responsible for the days that vehicle had to be in the shop for repairs. This exemption, under this bill, exempts the theft or presumed theft, from that coverage when I buy it. Correct?

MS. PITTMAN:

My understanding of the intent of putting these provisions under the collision-damage waiver portion of statute was to add an additional measure of what would constitute a contract violation. The contract violation is if you purchase a collision-damage waiver and a couple of things happen, you are no longer covered under that collision-damage waiver. If it is determined you were driving recklessly, driving drunk or if you claim your vehicle was stolen but cannot meet these standards, then that constitutes a contract violation as well.

SENATOR CARLTON:

That is where I have the stumbling block in meeting these standards. I understand the police report. That seems reasonable. If I file a false police report, there is a much bigger hammer that is going to smack me than any car-rental insurance provision. It is the key portion of this that I see people being caught in.

Mr. Chairman, I will give up on this now. I think we have gone as far as we can go. If a rented vehicle is stolen and the lessee files a police report and that is good enough for my insurance company, it should be good enough for the rent-a-car company, too.

CHAIR SCHNEIDER:

We know the car-rental companies have been generous to us the last few years. The car-rental tax built that new baseball stadium in Reno, as well as projects in Las Vegas where most of the cars are rented on projects such as the

Smith Center and others with ongoing revenues. I know Senator Horsford was going to hit the car-rental companies again for another \$30 million this year.

SENATOR CARLTON:

That was our money they were using. They did not build that stadium; it was fees paid on the rental cars that built that stadium.

CHAIR SCHNEIDER:

I understand. Committee, what is your pleasure with this bill?

SENATOR CARLTON:

Are we going to talk about the bill? I cannot support the \$2,500. I understand the idea for wanting to increase it and it has not been increased for a long time.

CHAIR SCHNEIDER:

How long has it been since it was increased?

SENATOR CARLTON:

Something around 20 or 30 years. It has been a while and I understand them wanting an increase, but my position would be that if my deductible is at stake and I pay my fair share and then my insurance company chips in their portion, then the insurance company that is actually covering the cars for the rent-a-car agency should pay their share. I think this amount, in essence, would eliminate the insurance company ever having to file a claim against their own insurance for this particular one. If the number was a little lower ... I mean, if it was \$500 and they are talking about the time-value of money, making it \$1,000 would be reasonable. I see this amount absolving the insurance companies for the self-insured group for the car-rental companies from not ending up bearing a portion of this. Everyone should have a little skin in the game in this one.

CHAIR SCHNEIDER:

If you had your own insurance and took the waiver to waive their insurance, then your insurance would step forward. Is that correct?

SENATOR CARLTON:

This does not have anything to do with the loss-damage waiver. This is under a different section of law.

CHAIR SCHNEIDER:

Mr. Craigie, if your insurance company is covering Senator Carlton and the car gets keyed or somebody backs into it in a parking lot, are you covering her under this?

MR. CRAIGIE:

Assuming that the language in A.B. 177 passes and goes forward, many of the conditions that would cause a person to have to dip into a high deductible package would be covered under subsection 4 of section 5.

SENATOR TOWNSEND:

Are we now talking about this proposed amendment, [Exhibit C](#)? It says,  
"NRS 482.31535, 1. Except as otherwise provided ... a short-term lessor and a short-term lessee of a passenger car may agree that the lessee will be responsible for: ... (e) Physical damage to the car and loss of the car up to, \$2,500, resulting from vandalism not related to the theft of the car and not caused by the lessee."

Somehow we have lost sight of the fact that those who rent are taking a \$25,000 to \$40,000 vehicle for which they are responsible. This is the contract that makes the agreement. If it gets damaged, if it gets stolen, you are the responsible party. The company did not steal it back from you or go beat it up, so you have to be responsible. Now, there are options provided by the lessor that you can pay for. Some of these have exemptions to those options. Adults have driver's licenses and their own coverage and should know what their coverage says.

We have been talking around this for nearly an hour. This is not that hard. You are moving a number up, probably because the cost of cars has gone up and damages go up. When the car is taken out of service in order to repair the damage, there is a loss of that vehicle. When you rent it, you have to be responsible for it. If you do not want to be responsible, do not rent it or find another insurance carrier or something, but you cannot have it both ways. You cannot rent the car and be responsible for it and then not have responsibility.

MR. CRAIGIE:

I agree.

CHAIR SCHNEIDER:

Thank you. You said it perfectly.

SENATOR CARLTON:

I do not think we are talking about not being responsible, I think we are talking about the fact that ultimately, insurance for these vehicles follows these vehicles, and the insurance company, the car-rental company, insures these vehicles. If something happens to the vehicle through vandalism, which is where the responsibility for that lies, it can go either way. If you park it in the wrong spot, if you make a bad decision, then it is your fault. But, if you leave it in the wrong parking lot, not being familiar with the city and believing you are being responsible, it is the fact that the cost of this insurance is going to be switched from the car-rental company to the renter. The renter's insurance company is going to bear a bigger portion and not a proportionate share of the damage. It will all be shifted to the lessee.

SENATOR TOWNSEND:

Why is it different than what you do with your own car and your own insurance? It is not. It is not different at all. You cannot apportion vandalism.

SENATOR CARLTON:

I am talking more along the policy issue of when the insurance company insures a car.

SENATOR TOWNSEND:

Which insurance company? Yours or the one ...?

SENATOR CARLTON:

The insurance company insures the rental vehicle through a self-insured group; most of them do it through a self-insured group. Those vehicles are insured by whoever they choose to be their carrier or self-insured. Right? Okay.

With this language, the lessor would not have to make a claim against their own insurance because they would be shifting the cost to the lessee. That is my interpretation, and if I am wrong, I will stand corrected. When I read this amendment, [Exhibit C](#), it now means their insurance claims will go down, because they will not have to file a claim against their own insurance, it will be shifted to the lessee's insurance. If this happens often enough, all the different insurance companies in this State are going to be impacted. They could end up

turning around and going to the insurance commissioner about their loss ratio, saying they need to raise rates. It is a shifting of cost from one form of insurance to another.

SENATOR TOWNSEND:

The vast majority of people who rent vehicles are not Nevada citizens, so it does not matter. This is an issue of the lessor and lessee agreeing. You do not have to take this instrument. The lessee takes the collision-damage waiver for various reasons. Everybody in this room may or may not take it for various reasons. In previous testimony, the fee was \$25 a day. That is a good enough reason for me not to do it. I have my own insurance carrier and I am going to try to be a responsible individual. The fact that they are now asking for an increase in their deductible is a separate debate. No one has to take the insurance. We are not here for our opinions on whether there is value to the \$25 a day; that is up to each individual customer. I am not reading into this the challenges you are reading. I understand from your position, when you go on State business, why you do certain things the way you do, and I respect that. But, it is a choice you make. There is an option, for lack of a better term, to cover some of your own insurance with your own carrier by buying a waiver. That is the way some people see it. I do not see the problem. If you have a problem with the \$2,500, that is a legitimate debate—I do not. But to argue whether they are going against self-insurance because they are self-insured, that is not relevant.

We are talking about the customer making a decision to either buy the coverage or not. That has already been determined. That has been in the law forever. Now we are saying what is exempted from that if the consumer buys it. That is all this bill is about. What is exempted from it? From the original bill, which we tend to be getting away from, they are adding the role of a problem they identified which is theft. They are trying to establish the responsibility of the lessee if there is a theft. Theft is a simple situation under this bill, because it is already covered in statute. It is simple; if you do certain things, it is going to be covered. If you do not do them, it is not going to be covered if you block the collision-damage rider. That is all this bill says. I do not see it more complex than that. I do not care whether you are self-insured or not. If you are self-insured, you are probably buying reinsurance anyway. It has nothing to do with anything.

MS. MURPHY:

The only thing being amended to this bill is the cap for the vandalism from \$500 to \$2,500. That is the only thing we are here to discuss. The reason for the change is regardless of whether you have purchased the coverage. If you have purchased the coverage from any car-rental company, whether the vehicle is vandalized or not, you are covered 100 percent. If you do not purchase the coverage, currently the cap is \$500. Most people have a deductible between \$250, \$500 or \$1,000 so we can currently only collect the \$500. We want to raise that so you would be responsible for your deductible, and anything above that would carry over to the insurance carriers. We have discussed this with the insurance carriers and they are in agreement with us because of the amount of losses we take from vandalism. As we said in the previous Session, to repaint a car costs us close to \$2,500 to \$3,000. That \$500 is not even a drop in the bucket, unfortunately.

SENATOR CARLTON:

Currently, with the \$500 cap, the insurance companies are responsible. The insurance company for the car-rental agency is responsible for the balance due. Under A.B. 177, it would change the portion that insurance company would cover and shift it to the individual's insurance company. That is correct. I understand that and I understand wanting to raise the amount, but I am uncomfortable with it going up that high and that is only if you choose not to purchase the waiver. So, if you purchase the waiver, you are still covered as long as it does not get stolen. I want to make sure we are clear on that.

SENATOR CEGAVSKE:

Senator Carlton and I had a discussion before we came in and the concern was going from \$500 to \$2,500. But you have justified it in my mind because it does say "up to." It does not mean you have to go to the \$2,500. One thing that encourages me to be supportive is what has been happening. I was amazed at the testimony of what is being done fraudulently. People are literally planning to take the car; they know what they are going to do and what is going to happen. These will be helpful tools for the car-rental companies. The Chair is right; we have to recognize one thing. I do not know if we have a list for the 13 years I have been here, of how many times we have gone to the car-rental groups and said, guess what we are going to do to you this Session? That was a good point the Chair made, as we do tend to forget that. I understand and will be supportive. I appreciate the debate from my colleagues because that is

where I was having some concern along those lines and now understand the needs.

CHAIR SCHNEIDER:

We forget this is Assemblyman Ocegüera's bill and this amendment was not brought to the Assembly side, and I would like to know why it was not, and does he know about this amendment?

MS. PITTMAN:

Assemblyman Ocegüera is aware of this amendment. I provided it to him yesterday morning. This amendment was not originally incorporated into A.B. 177, and that was a clerical error on my part. When we originally fashioned A.B. 177, there was a portion of the bill that pertained to diminished value. When we brought the bill forth in its original form, we met concerns on the part of the insurance industry. So, we opted to delete that section of the bill and inadvertently deleted the piece on vandalism.

CHAIR SCHNEIDER:

Committee, we have discussed this to death in the work session. What is the Committee's pleasure?

SENATOR CARLTON:

I would like to put one more thing on the record. Ms. Murphy said earlier that without this waiver, this would get charged to my insurance company. Am I correct that those losses can be incorporated into rate filing with the insurance commissioner to increase insurance rates if the loss is at a certain level? Within the car insurance industry, they can go to the insurance commissioner to ask for rate increases and can include losses in those rate increases. This could be a component in increased insurance cost. Am I correct?

MR. CRAIGIE:

Based on the suggestion that it would go to the insurance commissioner, is that what you are suggesting?

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SENATOR CARLTON:  
For a rate increase.

MR. CRAIGIE:  
That would be a possibility, although they would have to make a substantial case that an increase would be warranted and necessary. A rate increase is a rigorous place to go, but that is part of the responsibility of the insurance commission and people take those cases in on a regular basis.

CHAIR SCHNEIDER:  
Ms. Pittman, you can give me a yes or no. Assemblyman Ocegueda is aware of the amendment and does he agree with it?

MS. PITTMAN:  
I sent the amendment to him yesterday morning and have not heard back from him, so I am assuming he agrees with it.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED A.B. 177 WITH THE NEVADA RENTAL CAR GROUP'S AMENDMENT.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR SCHNEIDER:

There being no further business before the Committee on Energy, Infrastructure and Transportation, this meeting is adjourned at 10:35 a.m.

RESPECTFULLY SUBMITTED:

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Laura Adler,  
Committee Secretary

APPROVED BY:

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Senator Michael A. Schneider, Chair

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