

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

**Seventy-fifth Session
February 11, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:08 a.m. on Wednesday, February 11, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator John J. Lee
Senator Shirley A. Breeden
Senator Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

COMMITTEE MEMBERS ABSENT:

Senator Maggie Carlton, Vice Chair (Excused)

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Gordon L. Walker, Administrator, Taxicab Authority, Department of Business and Industry
Andy MacKay, Chairman, Nevada Transit Authority, Department of Business and Industry
Michael Geeser, Media/Government Relations, California State Automobile Association; AAA Nevada

Senate Committee on Energy, Infrastructure and Transportation
February 11, 2009
Page 2

Paul J. Enos, Chief Executive Officer, Nevada Motor Transport Association
A. R. Fairman, ARF Corporation; United Taxicab Drivers Corporation/Carson City

CHAIR SCHNEIDER:

We will meet as a subcommittee. Due to Senator Carlton's absence, we will remove Senate Bill (S.B.) 9 from the agenda and reschedule it.

SENATE BILL 9: Extends the maximum period that a hybrid electric vehicle may be used as a taxicab. (BDR 58-165)

We will open the hearing on S.B. 29.

SENATE BILL 29: Revises provisions relating to taxicabs. (BDR 58-434)

GORDON L. WALKER (Administrator, Taxicab Authority, Department of Business and Industry):

Senate Bill 29 amends *Nevada Revised Statute* (NRS) 706.8849. It provides for penalties for the alteration, manipulation, destruction, tampering or removal of a taxicab medallion. This bill would allow us to sanction drivers who do those activities.

Drivers will copy a medallion to a different color. The red medallion allows the taxi to operate 24 hours a day, 7 days a week anywhere in Clark County. Blue medallions are geographically restricted. Drivers make copies of red medallions then tape the copies over blue ones. With an unrestricted medallion, a driver can operate in other certificate areas, providing an unfair competitive advantage. The Taxicab Authority would like this bill to be stronger to sanction offending drivers and stop this practice before it spreads.

CHAIR SCHNEIDER:

What is the penalty if drivers alter medallions?

MR. WALKER:

The first violation brings a one- to five-day suspension and/or a \$100 fine. The second violation brings a 60- to 120-day suspension and a fine of not more than \$300. The third offense brings a fine of not more than \$500.

CHAIR SCHNEIDER:

Will not the drivers be terminated? What if they do it for a fourth and fifth time?

MR. WALKER:

If we suspended a driver's permit at any time, he would come before the Taxicab Authority's Administrative Court, and we would terminate his permit.

SENATOR NOLAN:

It is not very often that taxi operators would condone that activity. If, in your investigation, it was revealed that an operator was doing so, are there already things in the statute that would apply to them? Is there something in the new bill that deals with that?

MR. WALKER:

We already have the ability to bring a company before us on a show-cause hearing. That would be our course of action if it was involved in the activity.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 29. We will open the hearing on S.B. 97.

[SENATE BILL 97](#): Revises provisions relating to taxicabs. (BDR 58-433)

MR. WALKER:

Senate Bill 97 prohibits the use of handheld cell phones by taxicab drivers when they have a passenger. This is a safety issue. Drivers can still use two-way radios or the dispatch center. Drivers are using cell phones to call fellow drivers for directions or are having personal conversations while they have passengers. This bill allows drivers to use hands-free cell phones.

SENATOR LEE:

This is getting draconian what we are doing to taxi drivers. They do not work for the Taxicab Authority yet you are always trying to wrench down on these men. Why do you not just do your job, and if there is a problem, we will work on it? To come up with ideas like this just so you can have authority and pull them over is ridiculous. I will vote no.

SENATOR NOLAN:

Statistics say people who use hands-on cell phones are more likely to be distracted and have an accident. The debate will be easier if we are talking about individuals driving themselves while on a cell phone instead of about people being paid to safely transport individuals. The question becomes whether they can endanger others' lives. Cabdrivers often make phone calls on behalf of

passengers. The driver is doing them a service. There is a way to safely do this while using hands-free phones. I support the measure.

SENATOR CEGAVSKE:

Have you stopped taxi drivers using cell phones? Have there been accidents? Have we heard from the cab companies on this issue?

CHAIR SCHNEIDER:

No.

SENATOR CEGAVSKE:

Is this something you can restrict without legislation? Can you ask the cab companies to do it?

MR. WALKER:

One of our major companies has a policy prohibiting the use of handheld cell phones. We have no statistics on the accident rate caused by handheld cell phone use. Other studies have shown that cell phone use is a contributing factor in accidents. When we arrive at an accident scene, we only have witness accounts that a cell phone was being used when the crash occurred. It becomes one person's word against another's.

CHAIR SCHNEIDER:

Do insurance rates go down if the cab company has a policy of not using cell phones?

MICHAEL GEESER (Media/Government Relations, California State Automobile Association, AAA Nevada):

There is nothing that has proven insurance rates will go down if a motorist does not use a cell phone. However, almost every insurance company urges its insureds not to use cell phones while driving because of the mental distraction involved. With both hands-on and hands-free phone usage, studies have shown it is the intellectual distraction that causes accidents.

If the question is whether a driver would be safer if he were not holding a cell phone, the answer is absolutely yes. As to the insurance question, I do not know of any company that discounts a rate if you claim you do not use a cell phone in your car.

SENATOR NOLAN:

Insurance rates may not be decreased as a result of some statute about holding a phone, but anything you do to reduce accidents has a significant impact on auto insurance policies, errors-and-omissions insurance and workers' compensation.

SENATOR TOWNSEND:

Mr. Walker, would it satisfy you if companies sent you a letter of stipulation that they would make this a policy?

MR. WALKER:

That would satisfy us, and we would track compliance over the next biennium. If we needed something in the statute, could we come back to you?

SENATOR TOWNSEND:

That might be easiest for everyone. That way you would have a track record of what happened if you had the companies on notice that this is an important safety issue, as well as a common-courtesy issue.

I worry if southern Nevada taxicab drivers are giving out the best image to visitors. This is important particularly for departing guests whom we want to leave with a positive attitude. It should put the taxi companies on notice that this is what we are trying to do to have departing visitors feel positive about our community.

CHAIR SCHNEIDER:

I will close the hearing on S.B. 97. I will open the hearing on S.B. 27.

SENATE BILL 27: Revises provisions relating to motor carriers. (BDR 58-436)

ANDY MACKAY (Chairman, Nevada Transit Authority, Department of Business and Industry):

Senate Bill 27 includes three statutory changes in NRS 706.386 which delineates common motor carriers. Tow-car operators must obtain a certificate of public convenience and necessity. Both NRS 706.463 and *Nevada Administrative Code* (NAC) 706.1377 delineate that intrastate charter bus operators must obtain authority from the Nevada Transit Authority (NTA). This creates a slight disconnect, leaving charter buses carriers not fully regulated, as pursuant to the Transportation Equity Act for the Twenty-first Century. The

change to NRS 706.386 would bring consistency between the statutes and regulations.

There is also a minor change to NRS 706.391 which lays the groundwork for the certificate application process. It delineates that intrastate charter bus operators are not subject to its provisions. Applicants for fully regulated authority must prove there is a market. The State may only regulate safety and insurance on non-fully regulated carriers: intrastate buses and tow cars.

Nevada Revised Statute 706.431 outlines application provisions for contract carrier authority. Applicants do not have to prove their markets; the contracts themselves substantiate the markets. Safety and insurance provisions remain in place, with the difference being that in NRS 706.391, if no petitions to intervene or protests are filed, the NTA may forgo a hearing and the carrier may go straight to the full NTA for consideration.

The NTA's thought is to create consistency between NRS 706.391 and 706.431. The NTA would like to permit the authority if we can forgo a hearing. This would save applicants time and money. *Nevada Revised Statute* 706.476 delineates the NTA's right to impound illegal motor carriers if a vehicle is used for passenger transportation without authority.

There is confusing language about bonding for respondents who represent themselves in court because it reads they shall post a bond and appear at a hearing. If the respondent appears within the required 48 hours, there is no need to post the bond. The majority of respondents before us are not represented by counsel, so they think they have to appear plus post a \$20,000 bond. This is not true, which the change to NRS 706.476 clarifies. The intention of NTA is not to expand its regulatory scope over charter buses.

SENATOR NOLAN:

The bill's first two provisions are currently functions of the NTA. Are you trying to better codify those provisions, except the third provision about bonding?

MR. MACKAY:

Correct. *Nevada Administrative Code* 706.1377 specifically provides intrastate charter bus service. This section delineates that NAC has the statutory authority to issue certification.

SENATOR NOLAN:

Do carriers ask why they have to post a bond if they are also required to be at a hearing within 48 hours after the citation is issued? What happens if the respondent says he will post the bond within 48 hours, but then takes off in the vehicle before it is impounded?

MR. MACKAY:

When the NTA impounds a vehicle, it must dispense of a hearing within 48 hours. If the respondent proves at the time set for the hearing he is the registered owner of the vehicle and makes an affirmative obligation, the State then proves its case.

An impound fine levied against the respondent has to be paid in full, then the NTA issues a release letter to the towing company. Rarely, an entity quickly posts a bond to retrieve the vehicle, which effectively postpones the hearing. The respondent must still pay the towing and impound fees. The statute currently reads that the respondent will post a bond and appear at the hearing. If the respondent appears as the registered owner and meets the statute's provisions, NTA will issue the release letter, thus negating the necessity for the bond.

SENATOR NOLAN:

Has the bonding always been \$20,000? Section 4, subsection 3 of S.B. 27 says NTA may also levy penalties of \$5,000, and the fine for impoundment of the vehicle is \$10,000. Is there no adjustment of the amount of the bond?

MR. MACKAY:

No.

SENATOR NOLAN:

Do you impound the fleet or just the vehicle subject to the violation?

MR. MACKAY:

We impound only the vehicle performing the illegal activity. Theoretically, if a company had five or six vehicles doing transport simultaneously, there could be many impounds at the same time.

SENATOR NOLAN:

Is there any lack of companies to post bonds? Do some companies have vehicles that are just not bonded?

MR. MACKAY:

No. If a vehicle is impounded, it is the rule, not the exception, that companies appear within 48 hours and do not execute a bond. If the State proves its case, companies pay the fine and the vehicle is released.

PAUL J. ENOS (Chief Executive Officer, Nevada Motor Transport Association):
We represent a lot of the carriers regulated by the NTA. We support S.B. 27 because it provides clarification and streamlines the process for our members and will not adversely affect their businesses.

A. R. FAIRMAN (ARF Corporation; United Taxicab Drivers Corporation/
Carson City):

I oppose this bill. It tidies up the statute's language, but makes the charter bus industry a fully regulated carrier when, by federal statute, it is not fully regulated. The information I supplied ([Exhibit C](#), original is on file in the Research Library) states the charter bus industry is still deregulated.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 27 in this subcommittee because we are lacking members.

We have a copy of a news story ([Exhibit D](#)) about Southern California Edison Corporation and BrightSource Energy signing the world's largest solar deal agreement to provide solar thermal power. The projects are in the southern Nevada area in Ivanpah, California, which is close to Ivanpah Valley in Nevada.

SENATOR TOWNSEND:

This story says southern Nevada and eastern California are the brightest and hottest areas in the United States. As the environmental impact statement (EIS) is prepared for the new airport in Ivanpah Valley, we should look at the solar energy potential on that side of Nevada near the California border.

Without interfering with the airport development and subsequent surrounding development, we should find out if we should make a State designation for future development, without interfering with local zoning options, to send a

message we are encouraging solar energy. We could have that discussion with the airport's planning director and someone from the county zoning department. We need to show the investment world we take this type of thing seriously and are working with our cities and counties to provide these designated areas for development.

SENATOR NOLAN:

At the request of private industry, we have created some Sales Tax Revenue (STAR) Bond districts, including the Tahoe-Reno Industrial Center in northern Nevada, in an effort to lure international businesses to the State. There is nothing to prevent us from initiating that type of activity in an area such as Ivanpah Valley. If we create that activity in concert with Clark County, maybe we will see more incoming international businesses.

CHAIR SCHNEIDER:

A local lobbyist told me he has picked up a solar client from Spain. Businesses from overseas are looking to come in to Nevada. It is a good idea to get organized so we know where we can place these people and they immediately know what are the rules. We will do that.

SENATOR CEGAVSKE:

Senator Carlton and I have wondered if the Committee could visit alternative-energy sites in Carson City, Reno or Las Vegas. There is also a project being built at the University of Nevada, Reno near the airport.

CHAIR SCHNEIDER:

We will. There is so much happening in southern Nevada; maybe we can see a couple of things down there on a Monday.

SENATOR TOWNSEND:

Nevada has not been appreciated much for all of the alternative-energy projects happening here. In southern Nevada, Boulder City has designated El Dorado Valley as a renewable-energy center for solar. As big as that project is, it is swallowed up by the valley; you can see its potential. There is a 15-megawatt solar project at Nellis Air Force Base. The Springs Preserve Water District project has created covers that keep the sun off parked vehicles. Solar panels on the University of Nevada, Las Vegas campus tie into the Desert Research Institute.

There is a cogeneration manufacturing plant in Mound House. Ormat Technology's Renewable Energy Center at the junction of Mount Rose Highway and Highway 395 provides an understanding of the difference between large-scale, industrial solar versus small-scale photovoltaic for homes. This is the real stuff; the future is here.

CHAIR SCHNEIDER:

We will schedule a time to see some of these projects because we will be working on a lot of alternative-energy bills with the Assembly. We will tentatively tour facilities in southern Nevada on February 23.

If there is nothing else to come before the Committee, this Senate Committee on Energy, Infrastructure and Transportation meeting is adjourned at 8:54 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____