MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Sixth Session
May 3, 2011

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:13 a.m. on Tuesday, May 3, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/76th2011/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 William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

Assemblyman Richard Carrillo (excused)

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Karyn Werner, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Robin Allender, Manager, Department of Motor Vehicles
Danielle Jones, Driver's License Review Supervisor, Department of Motor Vehicles
Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force
Brett Kandt, Special Deputy Attorney General, Office of the Attorney General
John Johansen, Highway Safety Representative and Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety
Brian Sanchez, Major, Patrol Operations, Nevada Highway Patrol, Department of Public Safety
Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender's Office
Tierra Jones, representing the Clark County Office of the Public Defender
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada
Kathleen Bienenstein, Program Coordinator, Nevada Affiliate of Mothers Against Drunk Driving
Sandy Heverly, Executive Director and Victim Advocate, Stop DUI Nevada

Chairman Horne:
[Roll was taken.] Please make sure your computers and cell phones are on silent. Today we have three bills on the agenda. We will go in order and open the hearing on Senate Bill 15 (1st Reprint).

Senate Bill 15 (1st Reprint): Requires the Department of Motor Vehicles to cancel the driver's license of a person convicted of driving under the influence of intoxicating liquor or a controlled substance under certain circumstances. (BDR 43-487)

Robin Allender, Manager, Department of Motor Vehicles:
This bill allows anyone who has had his driver's license reinstated to go to the Department of Motor Vehicles (DMV) and pay his civil penalty after the DMV is notified by the court that he has been convicted of driving under the influence (DUI). If he does not pay the penalty within 30 days, his driving privilege is canceled.

Chairman Horne:
I am confused. I thought once the conviction occurred, your driver's license was canceled anyway.

Robin Allender:
It is. The DMV gets the "legal per se," and the individual goes through court. If he does not go to court within 90 days of the suspension or revocation of his license, he can go to the DMV and reinstate his license. If he then goes to court and the court finds him guilty, the court will notify the DMV of the conviction. It does not always end in a conviction. Sometimes there is a plea bargain and the case ends up as reckless driving. If the conviction is for DUI and that stood, there is a $35 civil penalty assessed. If we do not hear from the driver within 30 days, the Department sends out a certified letter notifying him that the court deemed him to be guilty of the DUI. At that point, the DMV sends a certified letter to notify him that he still owes a $35 civil penalty fee.

Chairman Horne:
I am still confused. A person is arrested for DUI. At that time, his license is suspended?

Robin Allender:
Revoked. It is a 90-day revocation.

Chairman Horne:
He gets a court date and, if it is past 90 days, he can get his license reinstated pending the outcome of his court date. Now he has a driver's license and he can drive again. He has a court date and is convicted of a first-offense DUI. The DMV is notified, and the license is once again revoked?

Robin Allender:
Canceled. It is a cancellation, not a revocation.

Chairman Horne:
That is the problem. The first time it is a revocation, and the second time it is a cancellation. Correct?

Robin Allender:
The cancellation is pending his paying the $35 civil penalty fee. Upon conviction of the DUI, the civil penalty fee becomes due.

Chairman Horne:
Right, but what is the status of his license once the conviction occurs?

Robin Allender:
Once we are notified by the court, it becomes a cancellation. We send out a certified notice to him saying that he owes the $35 and he needs to come into the DMV and pay it.

Chairman Horne:
When he pays the $35, it moves from cancellation back to revocation?

Robin Allender:
Back to valid.

Chairman Horne:
Back to valid?

Assemblyman Frierson:
I am trying to figure this out, too. Today, without this bill, if someone has a DUI conviction, he is assessed a $35 fee. Correct?

Robin Allender:
Correct.

Assemblyman Frierson:
If he pays the $35 fee now, what happens?

Robin Allender:
Right now, if it is during the period of revocation for the conviction of the DUI, nothing is going to happen. He will have to come in and pay the reinstatement fee, as well as the civil penalty fee, in order to reinstate his license.

Assemblyman Frierson:
Right now, what happens if he does not pay this fee?

Robin Allender:
If the conviction comes in after he reinstates, we send out the same notification, but we cancel his driving privileges after 8 days. This bill will allow him 30 days to come in and pay the civil penalty fee.

Assemblyman Frierson:
So, to clarify, the goal of this bill is to give him more time to pay the $35.

Robin Allender:
Exactly.

Assemblyman Frierson:
Right now he only has 8 days and it is done. This bill will give him 30 days to pay the $35 and avoid having to be reinstated again.

Robin Allender:
Yes, sir. With the cancellation, there is no reinstatement fee assessed. He just needs to come in and pay the $35. He does not have to pay another reinstatement fee if we cancel his license. The reinstatement fee is only for the initial 90-day revocation.

Assemblyman Frierson:
Who is this bill trying to help?

Robin Allender:
The individual. His license will not go into a cancellation status immediately. It gives him 30 days before it goes into the canceled status.

Assemblyman Brooks:
What is the actual sentence for someone who is sentenced for a DUI? Does he lose his license on a first offense?

Robin Allender:
He does. It is a 90-day revocation.

Assemblyman Brooks:
It is merely a 90-day revocation? If he loses his license for 90 days, is it canceled for 90 days?

Robin Allender:
It is revoked. In other words, he completely loses his driving privileges. When he reinstates, he gets those driving privileges back.

Assemblyman Brooks:
You are revoked, then at what point are you canceled? If you do not pay the $35 civil penalty?

Robin Allender:
Correct. The reinstatement for that revocation occurs first. Then the DMV gets the conviction notice from the court. Once we get that, we send out a notice to the individual saying we received the conviction notice from the court, and now he needs to pay the $35 penalty. If he does not respond to us within 8 days, we cancel his license. This bill will give him 30 days to come in and pay the fee before we cancel his driving privilege.

Assemblyman Brooks:
If you cancel his license, he will have to pay a $35 reinstatement fee as well as the $35 civil penalty?

Robin Allender:
No, sir. It is strictly a $35 civil penalty fee. There is no reinstatement fee associated with it.

Assemblyman Brooks:
You mentioned some other fee that could be involved. At what point would that occur?

Robin Allender:
That is upon completing the revocation period of 90 days when you are required to reinstate your license.

Assemblyman Brooks:
How much is that?

Robin Allender:
It is $75 for the reinstatement fee, plus the $22 for the driver's license, so a total of $97.

Chairman Horne:
Does this also occur when there is an administrative finding of driving under the influence before the criminal conviction?

Robin Allender:
Can you please repeat that?

Chairman Horne:
When you get a DUI, it is two-fold. You have both the criminal proceedings and the administrative proceedings. There are times when the administrative finding occurs first.

Robin Allender:
It is going to be rescinded if they go through the administrative hearing and we determine that the DUI is not going to stand. We would rescind it. The reinstatement fees would not be applicable.

Chairman Horne:
If there is a finding that the person was driving under the influence at the administrative proceeding, would the notice go out as well?

Robin Allender:
No, sir. The notices are only upon court conviction.

Assemblyman Daly:
When a person gets a DUI, he is accused, but has not gone to court yet. Is that when the DMV revokes his license for the 90 days, or does that take another step in the process? My second question is, when does the 30 days start? From the date of the notice or when the DMV gets the notice of conviction? By the time the DMV gets the notice, it has already been 10 days since he was convicted. Then, by the time you send the notice out, it is another 10 days or so. I want to know when his 30 days start to run. I am still not certain on the revocation. The way you were talking, the person can get his license revoked, not be convicted within 90 days, come in and say that his 90 days are up and he wants to reinstate and pay the fee. Later he is convicted and has his license canceled if he does not pay the $35 civil penalty.

Robin Allender:
It is fuzzy. When a person is arrested for DUI, that arresting agency—Nevada Highway Patrol, Las Vegas Metro, et cetera—will notify the Department. Once we receive the citation notice, we send out the revocation notice to the individual. He has 90 days from the start date of that revocation. After the 90 days, he can reinstate. There are two hearings. He can request a hearing through the DMV, an administrative hearing, and then he has a court date. If the DMV determines that it was a DUI, he pays the $75 reinstatement fee. When he goes through the court, and the court has different situations, it can say that although you were caught drunk driving, if you do this, this, and this, we will reduce it to something less, like reckless driving. In a case like that, as long as the DMV still determines that it was a DUI, the reinstatement fee will still apply. On our records, it is still going to show as a DUI, but if the court plea bargains or determines something occurred so that they are not going to make it a DUI conviction, that penalty will not go into effect. The penalty is only assessed when the DUI conviction goes through the courts.

Assemblyman Daly:
When does the time start to run?

Robin Allender:
The day the notice goes out. They have 30 days from the date of the notice.

Assemblyman Hammond:
You are sitting around with your colleagues discussing policies and procedures and things you think need to be straightened out. You have said that the main reason for this bill is to increase the number of days that someone has to pay his $35 fine from 8 to 30 days. What was the problem you saw, and why do you think this is going to fix that problem?

Robin Allender:
I am sorry, but I do not have that answer. I would have to contact the DMV in Carson City and get that information for you.

Danielle Jones, Driver's License Review Supervisor, Department of Motor Vehicles:
The way the current law reads, we can prevent someone from obtaining a driver's license if he has not paid the civil penalty fee. If he has already reinstated when we get the legal per se action from law enforcement, we do a 90-day revocation. When we receive the conviction from the court, that 90 days is matched, so there is no additional time to serve. If they have not reinstated, the civil penalty fee is automatically included with the reinstatement fees at the time he comes in. If he has already reinstated because of a delay in the court system, or we have not gotten the conviction, we have no way to collect the $35.

Assemblyman Frierson:
I think we are getting to what we are trying to accomplish. Would this help the DMV collect the $35 more efficiently or more frequently?

Danielle Jones:
Yes, it would.

Assemblyman Frierson:
The testimony was that this was designed to help the individual, but the bill is worded in the inverse. I am wondering if, instead of saying that the DMV "shall cancel," if it was worded "the Department shall not cancel the license unless the person has failed to pay the civil penalties within 30 days . . ." if that would accomplish the same goal. The way it is worded right now does not sound like it is trying to help anyone. If that was the goal, I wonder if wording it inversely

would help communicate what the goal is. The goal is to get the $35. I am trying to figure out if people are saying, "Forget it, I am never going to get a driver's license again." Are we ever getting the money?

Danielle Jones:
They would get a driver's license again. We just do not have the authority to collect the fees if they already have a valid driver's license. We want to issue a cancellation order giving them 30 days to send in the $35 payment. If they do not pay, they would be canceled until they pay the civil penalty. There would be no additional fees or penalties above that.

Chairman Horne:
We will have Legal take a look at the wording suggested by Mr. Frierson. We will see if that accomplishes what you are trying to do.

I see no other questions. Do you have more favorable testimony this morning?

Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:
We are in favor of S.B. 15 (R1) as it encourages convicted DUI offenders to pay their civil penalty of $35 on a timely basis. If so, it will not interfere with their reinstated driver's license if the conviction is received by the DMV after the revocation period. This is not a new fee; that is very important. It is just a way to recoup what is due already. This penalty is deposited into a fund for compensation of victims of crime. Therefore, this becomes a victims' bill ensuring timely funding to provide the much needed financial support that victims of crime so desperately need after their victimization. I urge this Committee to support S.B. 15 (R1). I am also a member of the Alliance for Victims' Rights out of Washoe County and they are also in favor of the bill because it is a victims' bill to get much needed money into that fund.

For clarification, the administrative revocation on a DUI is strictly an administrative procedure within the DMV and does not have much to do with the court conviction process. It is only with the civil penalty that the two tend to merge and have interface. The administrative license revocation is a totally separate issue from the court case.

Assemblywoman Diaz:
We are still trying to see what the bill accomplishes, and I want to be sure I understand. Currently, what would happen if the person did not pay the $35 within the 8 days? Does the DMV collect that when they come to reinstate, or is that $35 wiped out and they only pay reinstatement fees at that point?

Danielle Jones:
If they go into cancellation, we issue a cancellation order. The license would remain canceled until the $35 is collected.

Assemblywoman Diaz:
Currently, even if the 8 days pass, do they still have to pay the $35 to ensure their license is no longer canceled, and they can reinstate it?

Danielle Jones:
Yes.

Assemblywoman Diaz:
What does the longer 30-day window do? What does the longer time do since they can still go to the DMV after the 8 days and pay the $35. I am trying to understand what the 22-day longer window gives the DMV or the driver.

Danielle Jones:
Currently, we do not have the authority to send out the notice to actually cancel the license because of the current wording in the statute. The statute says we can prevent them from obtaining a license, which we do until the fine is paid. However, this covers the case where they have already paid their reinstatement fees on the administrative action and would allow us to actually do the cancellation.

Assemblyman Sherwood:
Is the $35 fee more expensive if I wait 8 days?

Danielle Jones:
No.

Assemblyman Sherwood:
It sounds like the goal is to get more money sooner for the victims' fund.

Danielle Jones:
It is just to be able to collect the fee if they already have a valid license.

Laurel Stadler:
I have not found anywhere in statute where the 8 days is mentioned. When I read this bill, I thought it was a new 30-day window to encourage offenders to pay that $35. That is what I am hearing from Ms. Jones, which is different from the previous testimony. Now I am confused. I thought this was for the DMV to have a hammer to get the $35. That is why we are here to support the bill, to get the money into the fund for victims.

Assemblyman Brooks:
The DMV currently has no authority to cancel a license after 8 days. Is that the bottom line?

Danielle Jones:
Yes.

Assemblyman Brooks:
So what you are asking of us today is to give you the authority to cancel a license, not in 8 days, but in a grace period of 30 days.

Danielle Jones:
We asked for the 30 days since the driver has already been canceled by the time he gets to the post office to sign for his certified mail. There is only an 8-day window. We are trying to give drivers time to take care of their fees before the driving privilege is canceled.

Assemblyman Brooks:
You like the policy that you have put in place, but there is nothing in statute that allows you to do it. If you continue to do it, you want to do it right by allowing 30 days?

Danielle Jones:
Correct.

Assemblyman Brooks:
Now, that is clarified. Currently, you are canceling licenses after eight days. How is that affecting drivers who may not even know their licenses are canceled? Are they being pulled over on the tenth day? Are they getting arrested, or are they getting another citation? How does this affect those drivers?

Danielle Jones:
Yes, they can get a ticket for driving on a canceled license. It depends on the officer. If their licenses are canceled, they can be issued a citation. All they need to do is call the Carson City DMV or go into a local DMV, pay the $35, and their licenses are valid again.

Assemblyman Brooks:
That individual has no idea that he has been canceled since nothing has been sent to him.

Danielle Jones:
No. A certified letter does go out. They are notified.

Assemblyman Brooks:
Thank you.

Chairman Horne:
It is just a matter of when they get it.

Assemblywoman Diaz:
I want to know how successful the DMV is in collecting the $35 fee currently.

Danielle Jones:
Currently, we are very successful in collecting it. We collect it with every reinstatement on a DUI.

Chairman Horne:
There are no more questions. Is there anyone else wishing to testify in favor of the bill? I see none. We will move to the opposition. Is there anyone wishing to testify in opposition to S.B. 15 (R1)? Is there anyone neutral? I see no one.

We will close the hearing on S.B. 15 (R1) and bring it back to Committee. We will move on to the next bill, Senate Bill 42 (1st Reprint).

Senate Bill 42 (1st Reprint): Authorizes the testing of drivers of vehicles that cause fatal vehicle accidents or collisions for the presence of alcohol. (BDR 43-293)

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:
I am here today on behalf of the Attorney General to provide testimony in favor of S.B. 42 (R1). This bill was requested by the Attorney General's Advisory Coalition on Impaired Driving. It is about the search for truth when someone dies on Nevada's roadways. It amends *Nevada Revised Statutes* (NRS) 484C.150 to require all surviving drivers that cause fatal car accidents or collisions in Nevada to submit to a preliminary breath test, or PBT, for the presence of alcohol.

[Spoke from prepared text (Exhibit C)].

Testing all surviving drivers suspected of causing fatal car accidents in Nevada would close this gap in the statistical data collected by the Impaired Driving Program of the Nevada Office of Traffic Safety. I am going to have

Mr. Johansen from the Nevada Office of Traffic Safety delve further into that after my testimony.

Under current law, an officer responding to the scene of a fatal car crash has the authority to administer a PBT to a surviving driver only if the officer has reasonable cause to believe the driver is under the influence of alcohol or a controlled substance. To establish these reasonable grounds, officers rely upon their observations of any indicia of impairment, and they routinely do this through the administration of field sobriety tests. However, a driver survives in only about 50 percent of car crashes resulting in a fatality. The drivers who do survive often suffer some level of injury.

It is important to note that the Legislature already requires deceased drivers to be tested for the presence of alcohol under NRS 484C.170. In fact, that statute also requires that all deceased passengers be tested for the presence of alcohol. However, there is no similar requirement for surviving drivers. This presents a problem for officers attempting to develop reasonable grounds, since they may be unable to administer a field sobriety test, or otherwise ascertain routine signs of impairment from a driver who suffered minor injuries or may be in a state of shock. As a result, up to 40 percent of drivers surviving a fatal car crash in Nevada are never tested for this impairment. Senate Bill 42 (1st Reprint) addresses the problem by requiring testing of surviving drivers, once again, if they are suspected of causing the accident.

This has no fiscal impact upon current Nevada law enforcement operations, and can be required at no additional cost to Nevada's taxpayers. The equipment used to perform the PBTs is already used by law enforcement officers when they are responding to crashes, including fatal crashes. The test would ensure that the extent of alcohol-related driver impairment is actually known. In the event the accident leads to a claim of negligence or other litigation, additional testing could indicate that those surviving drivers were not under the influence of alcohol. It will provide more accurate data on the scope of alcohol related driver impairment, and the number of traffic fatalities that can be attributed to alcohol. That will enable Nevada to formulate a more effective response system and, hopefully, save lives. It will also serve justice by ensuring that drunk drivers are held accountable for the resulting deaths. Furthermore, failure to enact this legislation could put Nevada's share of federal funding for impaired driving initiatives at risk, funding that is currently used for law enforcement and our DUI courts.

When someone dies on Nevada's roadways, does the public have a legitimate interest in determining whether alcohol impairment was the cause? We believe

the answer is "Yes." We, therefore, believe that this bill is worthy of your consideration.

Chairman Horne:
What is the current law if there is the presence of alcohol, but not a 0.08 blood alcohol content (BAC)? If you have a 0.05 BAC and are in an accident that causes a fatality, what are the penalties?

Brett Kandt:
If I understood the question correctly, your scenario is where the individual may not be at the per se level of impairment, which is a 0.08 BAC. He could still be arrested for driving impaired. There are two means by which someone could be deemed driving impaired. It could be the per se limit, which is 0.08 BAC. If an evidentiary test reveals that there is a concentration of 0.08 BAC or more in the individual, it is a violation of the per se law under which you can be charged with drunk driving. Regardless of the level of alcohol in a person's blood, if an officer determines through a field sobriety test, or other method, that the individual is impaired, that can be the basis for making an arrest as well. That goes back to the fact that officers made arrests for drunk driving long before we had the whole process for testing people for the actual level in their blood. Did I answer the question, Mr. Chairman?

Chairman Horne:
Take me for example. I am 6 feet 1 inch tall, and 230 pounds. If I have one beer and I am involved in a fatal accident and law enforcement gives me a breathalyzer test on the scene and I test 0.03, what is the likely outcome? What will happen to me? Am I going to be taken to jail, or is the officer going to agree that I only had one beer? What does the law say that the officer has to do in that scenario?

Brett Kandt:
Actually, you raised a very important point. The PBT is not an evidentiary test. That is not admissible in court. The PBT can only be used by the officer in establishing the reasonable grounds for believing the driver may be impaired, which would give rise to their authority to require the driver to submit to an evidentiary test, which would be admissible in court. Under the scenario that the Chairman presented, if an individual blows less than 0.08 into the PBT, that is the end of the inquiry for the officer absent any other circumstances or indicia of impairment. The officer, at that point, does not have the reasonable suspicion to believe that the individual is impaired and is required to submit to the evidentiary test. Under the scenario that you presented, I believe that would be the end of the inquiry.

Chairman Horne:
The officer might say, "We have a fatality and I believe you caused the accident." First, who declares the fatality? Do the officers have the authority to declare someone dead, or do they wait until emergency medical services get on the scene? My second question is, how does an officer make the determination on the cause of the accident? Third, what if the officer cannot determine who caused the accident, since the deceased person may have been the cause?

Brett Kandt:
You are correct. Under what is proposed in this bill, the officer arriving at the scene would have to establish two things: the accident resulted in a fatality, and reasonable grounds exist to believe that one or more drivers involved may have caused the accident. If the officer cannot determine at the scene that there has been a fatality, this law would not come into play. If someone at the scene sustains critical injuries and is taken to a hospital and later dies, this law would not come into play. The fatality must occur at the scene of the accident. I believe this answers the first part of your question.

The second part of the analysis for the officer is whether he can establish reasonable grounds that a particular driver caused the accident. If the officer cannot ascertain that at the scene, this law does not come into play once again. But if the officer can articulate some specific facts that give reason for him to believe that a particular driver caused the accident, this law would come into play. There may be certain facts in the scenario that make it easier for the officer to make that determination; for instance, if it is a single car accident. If the driver wrapped the car around the tree and the driver walks away, but the passenger dies, that would give the officer reasonable grounds to believe the driver caused the accident resulting in a fatality and, under this law, would require the driver to submit to the PBT.

Another one-car accident would be if a car struck a pedestrian or a bicyclist. There may be sufficient facts for the officer on scene to determine that the driver was responsible for causing the accident. In a multiple car accident, it depends on the circumstances. One of the challenges for law enforcement officers, and they can certainly speak to this better than I, is when they arrive on the scene of an accident, there is carnage and they must figure out exactly what happened. The way this bill is drafted, it is very narrow in scope. Only the officer on scene can determine the facts and articulate reasonable grounds to believe that a particular driver may have been responsible for the collision. Only then can the officer proceed with requiring the PBT.

Assemblyman Segerblom:
What is the probable cause for asking the surviving driver to take the alcohol test?

Brett Kandt:
The reasonable grounds that would allow the officer to require a driver to submit to a PBT under this bill would be that someone died . . . [He was interrupted.]

Assemblyman Segerblom:
. . . and there was reason to believe that the surviving driver was responsible for the accident. But how do you go from there to probable cause that the driver was under the influence?

Brett Kandt:
Only after submitting to the PBT, if the driver blows a 0.08 BAC or more, does the officer have the basis to require the driver to submit to an evidentiary test, and only the evidentiary test results can lead to a DUI charge.

Assemblyman Segerblom:
My question is about the probable cause to have the driver submit to the PBT. I do not see that you are there. The driver was involved in the accident, was partially responsible for it, and there was a fatality, but I do not see how you can leap from there to requiring him to take the PBT.

Brett Kandt:
This is a policy determination for all of you to make that we thought was worthy of your consideration. Under certain circumstances and Nevada's implied consent law, the driver consents to submitting to a PBT. One of those circumstances is if someone has died and it appears that you, as the driver, were responsible for causing the accident. If that accident resulted in a death, you are compelled to submit to this nonevidentiary PBT.

We do not have any constitutional concerns with this proposal. We discussed this proposal at length with the Legislative Counsel Bureau (LCB). I have not talked with Mr. Anthony specifically, but with Brenda Erdoes and other attorneys. We do not have any constitutional concerns with this proposal, and neither does LCB. It is simply a policy consideration for you as lawmakers.

Assemblyman Ohrenschall:
I guess I still have some constitutional concerns even though you do not. I look at Nevada's current implied consent law, and I see that the officer needs to have reasonable grounds to suspect that the motorist was intoxicated. I guess

on line 15, if the "or" was changed to an "and" so that the officer still had to have reasonable grounds, that might be different. To blanket test everyone who is in an accident, without reasonable grounds, does not seem right. We have had great legislators and attorneys here, but we have still had bills passed that have been declared unconstitutional. I am worried that this might be one of them.

Brett Kandt:
I want to respond in two parts. First, I think it is important to note that under the bill as drafted, this would provide a third independent ground for requiring a PBT, so it is an "or" and not an "and." You would have (a), (b), or (c) where there is currently only (a) and (b). This third independent ground would be, under the circumstances that I described, reasonable grounds to believe that the driver caused an accident that resulted in someone's death. Secondly, I want to point out that, in our research and looking at the constitutionality of this proposal, we did look at laws in other states, laws that have been challenged in other states, and laws that have been upheld in other states, and that is why we have a significant comfort level with the constitutionality of this proposal.

Assemblyman Ohrenschall:
I am still troubled. If the "or" were an "and" or was somehow tied into reasonable suspicion or reasonable grounds to believe the motorist was intoxicated, I would feel more comfortable.

Assemblyman Daly:
I have some of the same concerns. In getting back to one of the situations that you talked about, when this bill originally started out in the other House, it said "involved," but they changed it to "caused." In the example you gave, the officer on the scene of a fatality would have some presumption or some reason to believe that the driver was the cause. But, when none of those facts have been established, I do not think you can jump to that conclusion. There was an incident not long ago where a sheriff hit a bicyclist, and it took several months to determine who was at fault. They ultimately did. Now you are asking an officer to make a snap decision regarding the cause. That is not the process that you use to determine fault. Sometimes it takes several days to determine whether there was someone at fault and issue a ticket. I do not see how you can get to the cause just like that. If the cause is undetermined, what happens if a person says, "I do not have to submit to your breath test because I did not cause the accident"? I see a scenario where law enforcement is going to say, "Hey! You refused my test, so you are automatically guilty." Now you have to overcome a presumption of guilt if you refuse the breath test. In situations like this, the officer might say, "You are obviously at fault because an accident occurred." If you use that same scenario, people should have known that

an airplane was defective and would crash before they got on it. You cannot make those conclusions ahead of time. You cannot do it. I do not think this is going to hold up. If I am sitting there, I am going to refuse the test, and what are you going to do? An officer cannot make that determination based on his presumption of undisclosed or uninvestigated facts.

Chairman Horne:
If a person refuses to take the PBT, an officer can effectuate an arrest. Correct?

Brett Kandt:
Yes, you are correct. Under Nevada's implied consent law, if a driver refuses to submit to a PBT when requested by an officer, he can be arrested and forced to submit to the test.

I would like to respond to Assemblyman Daly's concerns. Once again, if the officer cannot articulate specific facts that give him reasonable grounds to believe that a particular driver caused the accident, the law does not come into play. There is no request for a PBT. It would only be in those instances where the officer believes he can articulate the facts that he would have reasonable grounds to require submission to the PBT under this proposal. That would be separate and apart from any facts that the officer can articulate that gives him reasonable grounds to believe the individual may be impaired. The officer would then require the driver to submit to the PBT under separate and independent grounds in the law.

Assemblyman Daly:
You said that under the implied consent law, if I get pulled over for speeding, and there is no indication that I have had anything to drink, I do not have to submit to a breath test. Is that correct?

Brett Kandt:
They must have probable cause.

Assemblyman Daly:
I can refuse a breath test. The officer must have some reason to believe that I am impaired. It is the same thing here. If this is the case, the officer must have some cause, or some conclusion, that I caused the accident. I am assuming if I am still alive and conscious, the officer is going to question me. I tell him what happened, that a dog or deer ran across the street making me spin out. He cannot make a conclusion. You are asking the officer to draw a conclusion before he has the evidence in hand. I think a person could refuse at

that time and the officer is going to say, "No, we are going to make you guilty of something" before he has probable cause.

Brett Kandt:
Obviously, these situations for officers are very fact specific. If the officer has 15 eyewitnesses that say the driver ran the red light and T-boned the car that resulted in everyone in the struck car dying, the officer may feel that he has sufficient, reasonable grounds that the surviving driver caused the accident and to require him to submit to the test under this law. It is very fact specific.

Assemblyman Brooks:
How is it done now when there is an accident and the cause of the accident has to do with alcohol or drugs? I know people are arrested. I think you may have answered that already. The second point of this is when you say fatal accident or collision, are you saying fatal accident or fatal collision, or just collision in general?

Brett Kandt:
Currently, the implied consent law is tied completely to the issue of impairment, regardless of whether there is a resulting accident or someone dies. I made reference to NRS 484C.170, which currently requires that anyone who dies in an accident be tested for the presence of alcohol. It is interesting because that law does not distinguish between someone who is 8 or someone who is 88 years of age. It says all deceased passengers must be tested for the presence of alcohol.

Section 1, subsection 1, lines 8 and 9 of the bill, which is the existing law, says ". . . at the scene of a vehicle accident or collision . . ." so, in drafting this bill, the LCB drafters simply mirrored the existing language which makes reference to an accident or collision.

Assemblyman Brooks:
Does that mean that you would also hold someone accountable at a collision when someone has died, or just a collision?

Brett Kandt:
No. It is a two-part requirement; two predicates to require the PBT under what is proposed here. One, the driver appears to have caused the accident or collision; and two, as a result of that accident or collision someone dies.

Chairman Horne:
I see no other lights for questions.

John Johansen, Highway Safety Representative and Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety:
As background of what we know and do not know about alcohol-related crashes in our state, page 2 of the handout (Exhibit D) shows the number of alcohol-related fatalities in our state for 2004 through 2009. The newer definition is being used by the National Highway Traffic Safety Administration (NHTSA). These are fatalities where the alcohol level was at the legal limit of 0.08 BAC, or higher. As you see, since 2006, we have made great strides in reducing the number of alcohol-related fatalities. It is in proportion to total fatalities. As the alcohol-related fatalities have gone down, so have the total fatalities. In 2006, we had 435 fatalities for the year. In 2009, we had 243 total fatalities for the year. That reflects the drop.

On the next page, the percent of these fatalities that were related to alcohol has, unfortunately, remained relatively stable. We were as high as almost 50 percent back in the year 2000. In 2003, we dropped into the upper 30s, and it has stayed in the mid- to upper 30s since. While we have reduced the total numbers, the percentage related to alcohol has really not changed on Nevada's roadways. That is a troubling problem because we have a group of people who do not seem to be getting the message. We do not have enough information to ensure we know what is going on.

Page 4 shows the number of drivers in fatal crashes. In 2009, 457 drivers were involved in fatal crashes. The 336 deceased drivers were tested. We do not know whether alcohol was involved in the remaining 121 because the surviving drivers were not tested. The law states that all decedents, whether driver, passenger, pedestrian, or bicyclist are tested for alcohol as a result of a fatal crash. The bottom line is that about one-third of our information is missing. The decisions that we make are based on two-thirds of the data that is possible to get.

Part of that problem leads to attributing to what has caused the crash. There is a lot of talk about accidents, et cetera. There is never a crash that does not have something, or someone, at fault. The question is, what? We are missing one-third of that information. We really do not know. Knowing would aid us a great deal in finding how to best address some of the problems. The NHTSA does track the percentage of all drivers, surviving or deceased, involved in crashes that have a reported presence of alcohol. That report can be zero, which counts as much as a 0.2. That ratio is part of the criteria for qualifying for alcohol-related safety funds. It is not the only criteria; it is one of eight. You meet the criteria by improving your percentage of testing each year. Any year you slip back, those criteria no longer qualify for that year. It has to go up, or have a law that says we will test all drivers to ensure that alcohol is not

a part of the accident. This bill says, while it does not go quite as far as testing all drivers as the federal government wants, all surviving drivers in a crash that results in a fatality must be tested. This also says if there is reason to believe the surviving driver was responsible for the crash, that driver is requested to take a preliminary breath test to verify if alcohol may be present, and if so, how much.

That is basically where we are. It is very difficult for us to sit down and say two-thirds of the data will help us reduce fatalities on our roadways. I really do not know what the causes are in a couple of hundred crashes each year. There is no definitive way to say whether alcohol was involved. I have a suspicion that we would see something similar to the average, perhaps a little less, but I certainly do not view this as an attempt to convict people. We actually have several instances where the surviving driver has requested a PBT for liability issues. It is nice to be able to tell your insurance company that you have been tested and there was no alcohol present. It would resolve a lot of liability issues. That is just one of the reasons for doing this, but I am more interested in finding out what is really going on out on our highways.

Chairman Horne:
There are no questions. I see a highway patrol officer out there who is not signed in, but I am going to cast my line out and bring him up to the witness table.

Do you automatically look for a condition of indicia of impairment when you go to the scene of a fatal crash and there is a surviving driver? Is that one of your tasks?

Brian Sanchez, Major, Patrol Operations, Nevada Highway Patrol, Department of Public Safety:
If I understand what you are asking me, when we get to the scene of any type of accident, we make an initial assessment if it is possible. It depends on what is going on at the scene. In the situation of a fatality accident, you may have a driver there and you may not, depending on injuries and such things. If we can make that determination on the scene, yes, we will try to do that.

Chairman Horne:
This bill would basically give law enforcement the authority at an accident scene to do more than a preliminary investigation. Preliminary because I think there is more entailed in a preliminary investigation than just measuring skid marks. The only witness may be the only surviving driver. An officer makes the preliminary determination on whether the driver may have been the cause of that accident. During that time, he assesses the driver to see if he has

any of the indicia of some type of impairment. Is that correct? You are not precluded from doing that now, but this bill says that, once you make the determination that that driver may have caused the crash, you would be able to give the preliminary breath test.

Brian Sanchez:
Correct. If the driver is the causal factor, or we believe that, it is still not a conclusionary statement on scene. This is obviously an investigative process in determining cause. The conclusions on that are made in a later theater, if you will. In this given situation, what the officer has is the ability to use a preliminary breath test on scene. He has still yet to develop any determination if the driver is intoxicated. That is a causal issue which he would go into later.

Chairman Horne:
What would you do first? If you came upon a scene like that, would you try to determine the cause of the accident first, or would you check the impairment of the driver first?

Brian Sanchez:
Not to sound silly but, the first thing you do after you secure a scene is to do quite a few different things. You are not going to necessarily go straight to a driver and assess whether he is impaired. Obviously, when we get there, if we are first on scene, we triage. You are looking at the survivors and working with the people to get ideas as to who is where and in what car. After that, you will probably make the determination whether you are going to assess the drivers. Somewhere in that time frame, it will occur, if you are even able to do that assessment. In some instances, the drivers may not be on scene. The drivers may be carted away by ambulance or the fire department by the time our officers get there.

Assemblyman Ohrenschall:
When you come upon a scene like this, is there ever a situation where you suspect alcohol is involved and you would not be able to give someone the PBT? I am trying to figure out if this bill really fills a gap that is impeding law enforcement from testing for alcohol. If you come upon an accident scene and you see beer cans in the backseat, you think you smell alcohol, the driver seems disoriented, or for whatever reason you suspect the living motorist is involved with alcohol, are there many situations where an officer suspects alcohol is involved that he is not able to test the surviving motorists?

Brian Sanchez:
This would be something new for me, so I am not sure how we are going to work it in the field. We are going to have to do some training in this area.

In the past, in my experience working accidents and fatalities, yes, we did make an assessment if we could. In some instances, we could not. It is based on the situation. If you have an unconscious driver, that would obviously fall under implied consent, and there is a different law for that. Or, if based on injuries we cannot make the assessment on scene and the driver has been transported, that would change the options also. There are instances where you cannot do that. Generally, the officers will make that assessment.

Assemblyman Ohrenschall:
You mentioned the unconscious driver situation. If you do suspect that the unconscious driver was on alcohol, would you be able to take the test under existing law and analyze it?

Brian Sanchez:
If there is cause to believe the driver is under the influence and if he cannot answer for himself, if the officer develops probable cause under implied consent, then yes.

Chairman Horne:
I see no other questions. Thank you for coming up.

Is there anyone else here wishing to testify in favor of S.B. 42 (R1)?

Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:
We are in support of S.B. 42 (R1). I am a member of the Attorney General's Advisory Coalition on Impaired Driving (AGACID). We see this as an equal-justice bill. Currently, all fatal victims are transported for testing. Innocent victims become evidence. Unfortunately, we work with many families of DUI crash victims, and we have had many families tell us that their loved ones have been transported to the coroner's office as evidence. They are no longer loved ones: daughters, sons, husbands, or wives. They are evidence of a crash that have to be transported away from the scene to be tested for drugs and alcohol involvement.

This bill would help level the playing field so the decedents' families would know for sure what was involved in the crash that caused the fatality. I have been involved with drunk driving issues as a victim advocate and activist since 1990. Over the years, we have seen many, many crashes and we have had every scenario that you can think of. We have had the crashes where the driver is drunk and is tested so, and there is a fatality, but for different reasons, there is no proximate cause that the drunk driving caused the crash, so that person is not prosecuted for causing the crash, but he is cited and processed for drunk driving.

Questions were asked about automatically making that person guilty of the drunk driving crash, but it does not happen. Law enforcement uses crash reconstruction and such to determine exactly what caused the crash. If there is a driver in that crash who is driving drunk, regardless if he was the cause of the crash, he should be cited for drunk driving. He was driving drunk on our highways at the time of the crash whether that was the proximate cause or not. This bill makes everyone accountable for his actions at the time of the crash. The bill is to get everyone tested, and to get the victims' families the truth.

Over the years, there have been crashes where the surviving drivers have not been tested, so victim families do not know. Then you get anecdotal stories after the crash, such as "We know that driver was a town drunk" or "We know that person used drugs." Unless you do the testing at the time of the crash, you cannot go backwards. For victim families, it is crucial for them to know what caused the crash that killed their loved one. We believe it is equal justice for those victim families whose family members are mandatorily tested to get to the truth of what happened on our streets and highways. Because there is no going back, we cannot say, "We think they were impaired." If you do not have the testing, you will never know if there was impairment at the time of the crash. Unfortunately, there are too many scenarios, but having that information is knowledge. If you have it, you know what happened.

As John mentioned, a lot of drivers want to have that preliminary test to show that they were not impaired. It is just as important to show that someone was not impaired as to show they were, and to get to the truth of what happened in the crash.

Chairman Horne:
Thank you, Ms. Stadler. For clarification, all unnatural deaths are transported to the coroner's office. Is that not so?

Laurel Stadler:
In traffic crashes it is, but I am not sure of any others.

Chairman Horne:
You said that this was leveling the playing field because all fatalities have to be transported as evidence since they died in a collision. In any type of fatal collision, or any type of unnatural cause of death, the deceased are transported to the coroner's office. The other driver does not benefit from the testing of the persons who were killed in the crash, does he? I did not understand that portion of your testimony.

Laurel Stadler:
Since the possibly innocent victims are transported, testing the drivers to see which driver was responsible or impaired at the time of the crash would be getting evidence in place to show what the cause of the crash was. It is getting all of the information on the record as to what happened. That is what I meant. I was not comparing it to other fatalities and other types of crimes at all. The deceased driver is going to be tested to determine if he was impaired, so it is only fair and equitable to test all of the drivers in the crash to see where the responsibility lies, where the impairment was.

Assemblyman Ohrenschall:
I am trying to determine if there is a gap that needs to be filled. From the testimony of the officer before you, it appears when an officer comes upon a fatal accident and suspects that alcohol has been involved, he can test the surviving driver and the deceased driver. I am having trouble seeing where there is a gap that needs to be filled. It seems like standard operating procedure for an officer who comes upon an accident and suspects that there has been alcohol involved to test for it, whether the living driver is unconscious or conscious.

Laurel Stadler:
If the evidence is, I hate to say this but, obvious, then it probably is tested. Sometimes there is a difference in training officers. I work on several committees with Major Sanchez and it seems that the Nevada Highway Patrol (NHP) has training in place for fatal crashes. In some of our rural areas in Nevada, there are a lot of different agencies that might be the first responders, or might be on the accidents that are not on the highway, and there could be a large swing in the training that has been done for those other officers. This would put protocol in their training to say that this is what you do at the scene of a fatal accident. Some of the other officers may not be as attuned as those in the NHP that probably handle these accidents on a more regular basis. In some of the rural agencies, there is a different level of training so, if this statute were put into their protocol of what to do at a fatal accident, they would know to test the drivers if it looks like they are the cause. This is particularly true in the single-car crashes.

One of our current victims' son was killed a couple of years ago, and there was no testing done at the scene. It was an off-road crash. Her son was killed, then anecdotal information started coming out about what this driver had been involved in prior to the crash. At that point, the information is meaningless because there was no testing at the time of the crash. There are other instances of that type of scenario. This would fill a gap and put in another level

of training for the officers, and another level in the law to provide that information to victim families.

[Mr. Horne left the room and Mr. Ohrenschall assumed the Chair.]

Vice Chairman Ohrenschall:
Thank you. Even if this bill does not pass, more training may be needed to establish uniformity, so officers around the state are more attuned to whether alcohol might be the cause of a fatal accident. It sounds like there may be a gap in training somewhere. Is that what you are saying?

Laurel Stadler:
I believe that would be a good thing to do regardless of the passage of this bill.

Assemblyman Brooks:
You stated that this protocol should be set up so that everyone is tested if there is a fatality. Is that correct? You made a statement similar to that, and then you changed it and said, "if that person was the cause." That is my concern. If there is a fatality involved and the deceased individual actually caused the accident, you are still going to force the innocent individual who was also in the accident to be tested. I would hate to see a situation like that. I know that is not the intent of the bill, but it opens that can of worms. How do you feel about that? Do you see that as being an unintended consequence? Or would you prefer that?

Laurel Stadler:
In a perfect world, we would like to see all surviving drivers tested for alcohol and drug impairment at the scene to discover all of the facts of the crash. It is to find out what happened at the crash, what level of impairment there may have been, and what illegal activities might have been going on in any of the cars that were involved in the crash. Then, the accident investigation would show exactly what responsibility belonged to each of the drivers involved.

Assemblyman Brooks:
I get that, and that is what I sensed from you when you first came up. I wanted to clarify that this bill will not accomplish that. This bill will only accomplish that if the individual is the cause. I do not know that you are getting what you want out of this bill. That was my only point for bringing it up.

Vice Chairman Ohrenschall:
Are there any other questions for Ms. Stadler? I do not see any. Is there anyone else wishing to speak in support of S.B. 42 (R1)? I see none. Is there anyone neutral to S.B. 42 (R1)? I see none. Is there anyone opposed?

Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender's Office:
We oppose this bill because we agree with some of the constitutional concerns that you yourselves brought up earlier. It is important to know that PBT is a search within the meaning of the Fourth Amendment. That is why you need to amend the implied consent statute in order to effectuate such a search legally. There should be some nexus between a search and the reason behind it. Right now, under current law, if there are any indicia that alcohol is involved, and they are able to do the PBT, they are going to do the PBT. If there are open containers in the vehicles, any scent of alcohol, bloodshot or watery eyes, or anything, they will do the test. I have read a lot of police reports, not necessarily fatal accidents, but accidents involving DUI, and it is not a high threshold to conduct that PBT. We would say that there is no gap in the law necessitating the shearing off of little bits of the Fourth Amendment in order to address it.

One of the things that is particularly concerning is the testimony earlier that we want to make this Fourth Amendment exception because we want to find out more information. We should not abrogate the Fourth Amendment. Even if some courts have found that it is constitutional, we should not be pushing that line simply for data mining. That is what it seems to be coming down to. They are looking for information, but if there are no indicia that someone in the accident was actually drinking, there is no reason to make that search. Any indicia are the reasonable grounds which are contained in the statute. It has not been my experience that rural law enforcement officers are any more or less competent than urban law enforcement officers when it comes to that.

Finally, you cannot do a PBT on someone who is unconscious. You cannot because you must have a sustained breath for a period of time. If someone is hurt, it is hard to get that sustained breath out. We think this steps too far constitutionally, and we urge you to reject this measure.

Vice Chairman Ohrenschall:
Thank you, Mr. Johnson. Are there any questions for Mr. Johnson from the Committee? I do not see any.

Tierra Jones, representing the Clark County Office of the Public Defender:
In the interest of time, I will say that I agree with all of the comments stated by my colleague from Washoe County, as well as the concerns that were previously stated by this Committee.

Vice Chairman Ohrenschall:
Are there any questions for Ms. Jones?

If this bill were to pass and everyone was automatically tested with the breathalyzer test, does it ever give false positives, and could someone be sent for a blood test with extra expense incurred when he was not guilty of anything?

Orrin J. H. Johnson:
I will answer that. Yes, but I do not know if a false positive would be high enough to actually put someone under arrest. Chairman Horne brought up a scenario earlier in which he had one beer, had an accident, and rear-ended someone. The PBT came back 0.01 or 0.02. He was arrested, although it was not enough to find him guilty of a DUI. The officer did not smell anything or see anything and there were no indicia but, in the interest of liability, the officer took him back to the station under arrest. This incurred costs and the embarrassment that comes when someone gets arrested, even if the case ultimately gets dismissed. That is a concern as well.

Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada:
Our concerns echo those of the Committee, as well as Mr. Johnson and Ms. Jones. I would like to add an additional concern. In accidents in which an officer is involved in a fatal collision, as was given as an example by Assemblyman Daly, it could be problematic for law enforcement officers to decide whether there was cause to administer the PBT to one of their own officers. That is a conflict of interest, and is inherent in this bill. For that reason, and those already stated by the Committee and Mr. Johnson, we would urge your opposition to this bill.

Assemblyman Sherwood:
We are talking about 209 fatal accidents. Is that right? The testimony that I just heard said that the police now have blanket authority to stop every car. That is the impression that we are getting here. There were just over 200 fatal accidents. Why would we not want to do this as standard operating procedure? We are passing legislation that makes it a primary offense to talk on a cell phone, and we already have remedies for that. There are 3,800 drivers

who are pulled over now in Clark County. We are talking about 200 accidents where someone died and we do not want to do this? Seriously?

Orrin J. H. Johnson:
We opposed the text messaging bill, too. In terms of this bill, when you are talking about the constitutional protections, we should not be looking at cutting corners just because we cut them on this or that search. There are no indicia of any alcohol being used at all in all of those fatal accidents where people are not being tested. So what are we doing? Why are we spending extra time and effectuating a search when there seems to be no countervailing interest by the state other than looking for data which would justify the search? I guess it is the principle of the thing, which matters when it comes to the Fourth Amendment.

Rebecca Gasca:
The American Civil Liberties Union of Nevada (ACLU) is also in opposition to the text messaging bill, and I appreciate Mr. Sherwood for having brought it up. We believe that current law exists to allow officers to pull people over when they are driving erratically and not paying attention to the road. We do not need an extra law in order to do what an officer can already enforce. It is the principle of that matter and all other matters, especially as they are brought forward before the Judiciary Committee. Regardless if it is 200, 209, or 3,000 deaths, when we are looking at issues of constitutionality, we think those issues should be decided on their face value.

Tierra Jones:
As far as our office goes, we agree with Assemblyman Ohrenschall's comments that there could be constitutional issues with this. If there is not a gap that needs to be filled, we do not think this would be necessary. If the officers believe that there is any type of indicia of alcohol present or anything else, they can test for that now.

[Mr. Horne returned and reassumed the Chair.]

Assemblyman Sherwood:
Thank you for standing on principle. I appreciate your testimony.

Assemblyman Ohrenschall:
In terms of the constitutional protections that we are talking about, if Mr. Sherwood and I were both outside of a bank in Las Vegas, and I was running with a big satchel full of cash and a gun in my hand, a police officer would have probable cause to stop me and ask me what I was doing, especially if there was just an alarm at the bank. If Mr. Sherwood was also just walking

down the street outside of that bank with no satchel of money or gun in his hand, he would be offended if a police officer stopped him to search him to see if he was the bank robber. I think this is similar in terms of trying to check everyone for alcohol if there are no reasonable grounds to believe there is alcohol involved. If there are reasonable grounds, the driver should be checked, just as I should be stopped if I have a satchel of money, a gun, and am running outside of the bank. But I do not see why you should be stopped if you are walking outside of the bank minding your own business. There is no reason to believe you are the bank robber.

Assemblyman Hansen:
Let me see if I am following this correctly. Right now, under existing law, if I drive, I have already given consent to be tested if I am pulled over. Is that current law?

Orrin J. H. Johnson:
Not quite. Current law is that if you get pulled over with reasonable suspicion, so the stop is already legitimate and there are reasonable grounds, which there has to be, only then can they actually PBT you. If I get pulled over for speeding, and there are no indicia of alcohol, no, they cannot force me to do a PBT.

Assemblyman Hansen:
Would the fact that there was a fatal car crash be reasonable grounds to test people who may be involved in something of that magnitude?

Orrin J. H. Johnson:
Not necessarily because they are still under current law. There still has to be some indicia that alcohol is involved with that accident. There are plenty of accidents that are not caused by alcohol; drivers are just careless. When you are doing a PBT, you are starting a criminal investigation process, and that is what the Fourth Amendment is all about.

Assemblyman Hansen:
That is current law and that is what we are trying to change. It seems to me that this is reasonable and, if there is a fatal car accident, one of the things an officer should be allowed to do is to find out if alcohol was involved. It seems perfectly within common sense grounds to pass this law.

Assemblyman Sherwood:
I am reading the bill and it is pretty straightforward. It says in section 1, subsection 1, on line 9, ". . . where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was: . . ."

and we are just adding paragraph (b), "Driving or in actual physical control of a vehicle that caused an accident or collision resulting in the death of another person." So, do we trust the police officers to act reasonably? In this case, I am not just standing out in front of a bank. I am driving a car, I caused an accident, a death occurred, and the officers are trained and know what they are doing. Is this really an issue? I understand "protect the Fourth Amendment at all costs," but let us not lose sight that statute says "reasonable grounds to believe." Law enforcement needs discretion. We have to trust law enforcement.

Chairman Horne:
Is there a question?

Assemblyman Sherwood:
This is for clarification. Unless I am missing something, this gives police officers reasonable cause. I want to make sure that is on the record in response to "we are stopping everyone for everything."

Orrin J. H. Johnson:
I do not think the testimony ever was that we felt this bill would cause everyone to be stopped for everything. That is not what this is about. Our concern is that it takes away the requirement for some nexus of reasonable grounds if alcohol is involved. If they are stopped, as we interpret this and as testimony in favor of the bill seems to indicate, whether there is any indicia that alcohol is involved, they want to conduct the search. That is our issue with it and, again, we think that goes over the line.

Chairman Horne:
I see no other questions. Is there any other testimony? I see none.

Is there anyone else in opposition of S.B. 42 (R1)? I see none, so we will move to the neutral position. Is there anyone in the neutral position? I see none.

We will close the hearing on S.B. 42 (R1). We will open the hearing on Senate Bill 91.

Senate Bill 91: Revises provisions governing driving under the influence. (BDR 43-626)

Senator Mark A. Manendo, Clark County Senatorial District No. 7:
We have some witnesses in Las Vegas and some here at the table. I appreciate your letting them come forward. When we lowered the threshold for the blood alcohol content (BAC) years ago from 0.10 to 0.08, we did not reduce the

high BAC level, and that is what we are addressing today. We want to lower the high BAC level so we can evaluate and test more people. We feel that it is a cost-saving measure. Treatment seems to always be the proactive approach to things. It saves taxpayer money. People who are arrested with a high concentration of alcohol in their systems seem to be the worst offenders. They have problems and need to be treated. They need to be evaluated, and this bill basically lowers that threshold.

I will answer questions as we go along if that is all right. We have the experts in the field and our statistical people if they can proceed now.

John Johansen, Highway Safety Representative and Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety:
We will look at the handout from the Department of Public Safety for S.B. 91 (Exhibit E). Most of my remarks are going to be about what defines a hard-core drinking driver, which is the most dangerous problem driver we have on our roads. The National Transportation Safety Board, in testimony in front of the California Legislature, has identified that the 0.15 level drinkers are really the hard-core, or impaired, drinking driver who has a problem with stopping drinking, or stopping drinking and driving. That is the major definition of 0.15.

The Century Council also uses the same number, 0.15. The Century Council is a group of independent, proponents of reducing impaired driving on our roadways. It is funded by the distillers in this country. To work with the Century Council you cannot have ever worked for a distiller. They try to keep arm's length away, but they do recognize this problem. The hard-core drinkers are the most resistive to change.

Page 4 of the handout shows Nevada's BAC levels. The average BAC in alcohol-involved fatal crashes is 0.16. That is also the average for driving under the influence (DUI) arrests in our state. We have all read the papers and heard plenty of stories that so-and-so is a 0.18, 0.19, 0.25, or whatever. You really do not see a lot, comparatively speaking, at the 0.08, 0.11, or 0.12 level. We are addressing the most serious of the impaired driving groups.

Page 5 discusses the DUI court experiences. One of the reasons to define a high BAC at 0.15 instead of 0.08 is that it is the level in statute that looks at evaluations leading to permission to enter a treatment option. The Las Vegas Township Justice Court has had DUI courts for about five years or so. The guideline that the court uses is 0.15, then they begin evaluating everyone to see if they, in fact, should have treatment. What they found is, in this court, 250 participants took a look at the diagnosis of the people they had allowed into their program. Seventy percent of their participants are at the "dependent"

level, which means they do not function unless they are drinking. An "abuser" would be defined as someone who drinks to excess, but does not have to drink every day. He may be a weekend partier who gets blitzed on Fridays and Saturdays, but does not drink during the week. Again, 70 percent are substance dependent and 30 percent are substance abusers. These are misdemeanor offenders. Felony offenders have been drinking and driving long enough to get picked up three or more times. Actually, in Ohio, a felony offense is five or more times. Those are invariably diagnosed higher in dependence and lower in abuse. So you are looking at 75 or 80 percent dependent as opposed to abusers.

The Selected BAC Levels chart is from a presentation by a licensed drug and alcohol counselor that I have come to know. The 0.04 level is the legal limit for holders of a commercial driver's license. This is the person who is driving the bus you ride in. This is the heavy load trucker that you are passing, or is passing you, on the highways. At the 0.04 limit, the driver loses his commercial driver's license if he is there or above. The rest of us have a limit of 0.08. It is getting up there, but that is the legal limit that has been passed into law. At 0.12, you may begin to "pass out" or get lightheaded or black out very briefly. The National Council on Alcoholism recommends evaluation at 0.15. That is the key trigger point for determining dependency on alcohol. The average Nevada DUI is 0.164. It has held at that level for the last several years, seldom falling below 0.16 and seldom going above 0.17. A person can die of alcohol poisoning at 0.22. These are some of the key levels that we are looking at. When you think about it, 0.15 is not an unrealistic level.

My last comments will be on tolerance. Lots of people get confused on tolerance when talking about alcohol addiction. There are two types of tolerance. I can be tolerant of the toxic effects of alcohol. My body can adjust to the deadly effects of alcohol. I have a friend in South Dakota who confirmed that there was an individual who was arrested at 0.72. He was alive, but not very responsive. That individual was arrested, detoxified, and six months later he was out of jail on bond. He had not had his trial yet. He was arrested again at 0.68. That would kill most of us. As a matter of fact, most of us would be dead at 0.35. That is tolerance to the toxic level of alcohol.

There is no built-up tolerance to the impairing effects of alcohol. If I have been drinking for ten years and I can consume alcohol and stay at a 0.18 or so, I will be as impaired now as I was the first year that I got to 0.18. It is the impairing that affects your ability to drive or operate machinery, or any of the other things we are talking about. There is no tolerance; you simply learn to live at a high level of alcohol. That would be my argument that 0.15 is the distinction between abuser and dependent, since it is a known trigger level.

Chairman Horne:
I have a question on that level of impairment. My undergraduate degree is in criminal justice. I recall watching videos on impairment, particularly on functioning alcoholics. It was striking how some of these alcoholics were functioning under high limits, but when they were not under the influence of alcohol and had not been drinking, that was when they were the most impaired. It was after they were allowed to take several drinks that their reflexes were like someone's who was not under the influence of alcohol. It was different from what you just testified, that a person's impairment does not change. It seems to me that, at least from those videos that I watched for class, that that was not true for functioning alcoholics.

John Johansen:
To answer that, the impairment is still there, but when you are able to tolerate and "work" at a 0.18 level, you are going to have problems as you start to sober up. Now you are going to suffer in addition to any of the addicting impairments of the alcohol. You will also start to go into withdrawal. That compounds everything in this particular case.

I am old enough to have seen a bunch of movies that you probably have never seen. In *Cat Ballou*, Lee Marvin is a drunken gun fighter who is so impaired he can hardly stand up when he is sobering up, but when he has two or three drinks, he is absolutely amazing. When he comes down again, it all goes away. The comment was that, "That was probably the shortest sober period that I have ever seen" because this person could function at the higher level of intoxication. I think that is what you are seeing, someone who drinks all of the time and learns to "function" at that level and really begins to lose it as they become sober.

Chairman Horne:
Are there any questions for Mr. Johansen? I see none.

Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:
I would like to thank Senator Manendo for introducing this important bill.

The experts have said that 0.15 is the nationally accepted threshold, or what we would call the "industry standard" for high BAC, and indication that an evaluation of the offender is needed. I am focusing on section 4 of the bill, which would mandate that first-time DUI offenders get the evaluation that they need. The existing level of 0.18 does not comply with these industry standards. The treatment community has consistently told us that the best chance of successful treatment is at the earliest intervention. We have mandatory evaluations for DUI offenders under 21 years of age, and mandatory

evaluations for all second-time offenders. This change would greatly close the gap for first-time offenders by including those at 0.15 and above. This level, 0.15, is almost twice our legal limit of 0.08 and, as John mentioned, 0.16 is our average across the state of Nevada, which is twice our legal limit.

I have been testifying on DUI issues before this body since 1991 and have always supported treatment options in addition to other sanctions, not in lieu of. In reality, the evaluation and treatment for DUI offenders is not a sanction, but an opportunity for those offenders to get the treatment they need to change their behaviors. Those behaviors, if not changed, will potentially lead to the creation of many more innocent victims of DUI crashes.

I would like to encourage the Committee to support this legislation. The other changes in the bill that are also changing the threshold from 0.18 to 0.15 are all very appropriately designated for those at the higher BAC.

Chairman Horne:
When was this standard changed to 0.15? In 1995, we changed to 0.18 and said this was a good number for the evaluations. Now, we have a new number for evaluations. In another session, is it going to be 0.12 for the evaluations?

Laurel Stadler:
As I recall from the testimony at that time, 0.15 would have been appropriate back then, but this body chose to put the higher BAC at 0.18. That could be checked with the testimony.

Chairman Horne:
We will check on that and see how it got from 0.15 to 0.18. When I have had clients who have been 0.18 or higher, I have not found a judge yet that has missed requiring the evaluation. Judges, prosecution, and the defense counselors are all good at catching it and saying that the evaluation is required. It prolongs the criminal proceeding until the evaluation is completed. We will be adding I do not know how many more people to the pool if we do this. I would hate to create backlogs for another segment of offenders. We would be creating an even longer backlog. What would the difference be to go from a 0.18 to a 0.15? How large of a gap is that typically?

John Johansen:
I will see if I can answer some of your questions. First, what should the level be? Alcohol is unique in that it has been extensively studied over many, many years. It is the drug that has a linear relationship to blood alcohol content. The BAC of 0.08 has always led to "X" amount of impairment, 0.15 is "X" amount of impairment, et cetera. That does not change. It is different from other

drugs, which could be marijuana, heroin, cocaine, or oxycodone. Those behave differently in individuals based on dosage levels and concentrations within the body. Alcohol is remarkably linear and so there is no reason to believe that these levels defined under the current information that we have will change. We will not be saying that we should change the levels because we have learned something new. That is extraordinarily unlikely on those particular items. You had a couple of other comments, but I did want to get in the linear aspect of alcohol.

Chairman Horne:
If I am at 0.15 now, on average, how many more shots of Patrón will get me to 0.18?

John Johansen:
That is more difficult to answer, but that may be an additional drink in an hour for some people. For others, it might be 1-1/2 or 2 extra drinks. Again, we are talking size, et cetera. I would say it is probably a little more than one additional drink in that hour.

As far as changes in DUI offenders that would now be required to be evaluated, the population that we are looking at "affecting" by the change is DUI first offenders that are currently at 0.15 to 0.17. I did sit down with some of the justice court DUI personnel and we did some best estimates because, quite frankly, it is very difficult to identify how many of this particular set there were. We thought there might be as many as 3,000 statewide who would need evaluations. This is out of a total population of 20,000 arrested. We estimated there would be a 9 to 12 percent increase in DUI first offenders. We both felt this was high, but we were looking at the higher side to see if there should be a fiscal note written because of the increase of people in the evaluation process, which is where the real cost would be. The evaluation cost is $100 by statute, chargeable to the offender, which was set many years ago and does not cover the cost. We are looking at the incremental cost of the extra $50 that is a cost to the court. If we ask a private individual to give a substantial discount, he will not take on as many clients. The net result was that this would not result in a fiscal note.

Chairman Horne:
I have had a couple of experiences with clients where we went back to court after the time for the evaluation to be completed, but it had not been conducted yet because of the backlog. They had not been able to get to it, so we had to set another date. I was just curious on the numbers that we will be adding and if it is going to increase waiting time.

Assemblyman Ohrenschall:
My question deals with program treatment for the abuse of alcohol. How effective is it when offenders go through that program? Do they recidivate a lot, or do you find that it is effective and they are not repeat offenders?

John Johansen:
The recidivism calculations from the DUI courts consistently place the recidivism rate somewhere between 8 and 12 percent. This is calculated for the two years following the completion of the treatment program compared to an individual who has not gone through the treatment program for the two years after he has been released from court sanctions, whether it was jail or community service. Those individuals are recidivating at a rate of between 25 and 32 percent in the two years. That is a significant difference.

As an aside, this is true not only of DUI offenses, but also of most alcohol-driven offenses at the misdemeanor level. They are all reduced similarly.

Assemblyman Ohrenschall:
I want to get these statistics correct. For offenders who go through the DUI court, the recidivism rate is between 8 and 12 percent in the following two years. For those who do not go through the DUI court, it is between 32 and 35 percent.

John Johansen:
That is correct.

Assemblyman Ohrenschall:
I guess my fear is that, if this bill passes and fewer people are allowed to participate in that treatment for alcohol abuse, are we "cutting off our nose to spite our face?" The benefits of being able to participate in that program will be lost on these offenders because they may have had that extra glass of Patrón that night while celebrating at some after-work party. I guess that is my fear. If the recidivism rate is so good, and the statistics are so favorable, are we in essence not accomplishing our goal if we are going to make a law so fewer people can participate in that program?

John Johansen:
On the contrary. It would change the definition of those who need to be evaluated for consideration into the treatment options from 0.18 to 0.15. We are expanding the pool that it would capture and evaluate these individuals. The evaluation is the key. Right now, to be eligible for a misdemeanor-level treatment option, and again courts set up some of their own guidelines, you could be eligible if you are a DUI first offender, and if you are at a high BAC,

which is currently 0.18. You could be eligible at 0.15 if the law were changed. This expands those eligible for treatment. All DUI second offenders are included because that is the other trigger for a dependent individual no matter what alcohol level it is. If you are drinking enough and driving enough to get "popped" twice, you have a problem and those individuals will test as "dependent" more often than not.

Assemblyman Ohrenschall:
How many more offenders do you think would qualify for the program if this did pass?

John Johansen:
That was the 3,000 statewide that I referred to earlier. Our best estimate is DUI first offenders with a BAC of 0.15 to 0.17, which is the new eligible population. I worked with the state coordinator on the BAC levels and this is a little high.

Chairman Horne:
We are going to go to Las Vegas for the next testifier.

Kathleen Bienenstein, Program Coordinator, Nevada Affiliate of Mothers Against Drunk Driving:
Thank you for the opportunity to testify today in support of Senate Bill 91, which requires ignition interlocks for all first-time convicted drunk drivers with a blood alcohol concentration of 0.15 or greater.

[Read from prepared testimony (Exhibit F).]

Mothers Against Drunk Driving (MADD) believes that S.B. 91 will help reform Nevada's drunk driving law, and serve as an important step toward stopping drunk driving and saving lives in our state.

[Read from prepared testimony (Exhibit F).]

Since 2006, interlock technology has been used more widely for first-time convicted drunk drivers. Currently, 13 states and a California pilot program require interlocks for all convicted drunk drivers with an illegal BAC of 0.08 or higher.

[Read from prepared testimony (Exhibit F).]

Chairman Horne:
Are there any questions for Ms. Bienenstein? I see none. Thank you.

Sandy Heverly, Executive Director and Victim Advocate, Stop DUI Nevada:
I have been involved with the anti-drunk driving movement and victim's rights advocacy for the last 28 years. I also chaired the Attorney General's Advisory Coalition on Impaired Driving, and Senate Bill 91 is one of four pieces of legislation the Coalition voted to support. I would like to take this opportunity to thank Senator Manendo for introducing S.B. 91 for us.

Stop DUI strongly advocates the punitive ramifications of driving under the influence. However, equally important is the treatment aspect. With the hope of achieving a successful outcome, we recognize the two must complement each other. This bill is designed to change the existing standard of what is considered to be a high-risk driver based on BAC level. It allows us to be more proactive through an earlier evaluation and assessment process. Nevada's current 0.18 standard to determine if an individual is an abuser of alcohol is much higher than the 0.15 level that has been nationally recognized for many years by alcohol and drug abuse counselors and others as an indicator for this problem. The National Highway Traffic Safety Administration, the National Transportation Safety Board, and the Century Council, which is supported by the nation's leading distillers, recognize drivers with a 0.15 BAC as high-risk drivers. A driver with a 0.15 BAC is 20 times, I want to repeat that, 20 times more likely to be involved in a fatal crash than a sober driver. The average BAC of the 20,128 DUI arrests made in Nevada in 2009 was 0.16. Out of 50 states, Nevada ranks eleventh, percentage-wise, in DUI fatalities.

Frankly, if I was queen, all DUI offenders would be evaluated regardless of what their BAC was. The reason for this is that DUI offenders drive 87 times before getting caught driving under the influence. So, John or Jane Doe may be at a 0.08 or a 0.10 at the time he or she was arrested, but the question is, what was his or her BAC or drug of choice the other 86 times? With that being said, 0.15 is certainly a reasonable standard to adjust to. Again, early intervention will, hopefully, eliminate the multiple DUIs that may follow, and most importantly, reduce the potential for causing more death, injury, and destruction to the men, women, and children of Nevada, and to our visitors.

Chairman Horne:
Thank you, Ms. Heverly. Are there any questions? I see none. Is there anyone else in Las Vegas who wishes to testify in favor of S.B. 91? There is no one, so we will move to the opposition. Is anyone opposed to S.B. 91?

Tierra Jones, representing the Clark County Office of the Public Defender:
There are a couple of things that we would like to say in opposition to this bill. It was stated that the purpose of this bill was to seek treatment for those who have been arrested for DUI offenses. I would like the Committee to be clear

that there are treatment options in place with the 0.18 as it currently stands, as well as with those who have a blood alcohol level less than a 0.18. The minimum requirements for sentencing on a first offense DUI is a $580 fine, DUI school, a Victim Impact Panel, and a two-day mandatory jail sentence. A lot of the judges in Clark County also require a suspended jail sentence to go along with that. The offenders are allowed to participate in DUI treatment through the DUI school that they pay for. The offender also has to pay for the Victim Impact Panel. In a lot of these cases, it is at the discretion of the judge to order anything else that he sees fit. Many of the judges order the Secure Continuous Remote Alcohol Monitoring (SCRAM) device, which is the device that has to be placed on the ankle on the day they are arraigned. If someone is out of custody, it may be several months before they actually enter any type of plea or stand trial on a misdemeanor DUI offense. Currently, the judges have the authority to order the SCRAM device, which registers any time any alcohol is consumed by the individual. The device is installed at the expense of the offender, and it is a way for the court to monitor whether that person has any alcohol during the term that his case is pending. When that person goes back to court, the judge receives a report on whether that person has been drinking. The judge determines what the sentence will be based upon that report. There are already options in place.

It is highly expensive for a DUI offender to pay the fine, part of which cannot be converted to community service, as well as pay for DUI school, which runs about $300, and the Victim Impact Panel that he also has to pay for. If someone is ordered to do an evaluation at a 0.18, they also have to pay for that. As the Chairman indicated, there is a backlog in the evaluations. You will not see immediate results from passing this bill. Offenders often wait up to six months to have an evaluation done in Clark County. These people are still free to drive while they are waiting to have their evaluations done. The evaluation is costly for the offender, and there are times when he cannot afford it. If he does not have it done, he is taken back into custody. Whether he could not afford it, or the waiting list was too long and something else happened in the interim, if he is returned to custody, it could end up costing the taxpayers money to keep him in jail or to impose that suspended sentence if the evaluation is not done.

Chairman Horne:
Do you know if this is going to be one of the areas that may see reductions in services because of the proposed cuts throughout county services?

Tierra Jones:
I do not know if the counseling agencies would be one of the areas that would receive reductions in the Governor's budget.

Chairman Horne:
I think we need to look at that if we are going to increase the caseload on counseling, and decrease the counseling staff, and create an additional burden.

Assemblyman Ohrenschall:
Maybe I am misunderstanding, or maybe I am misreading the bill. The bill changed from 0.18 to 0.15, and Mr. Johansen testified that that would make more people eligible to participate in DUI court, and to get the treatment that has proven so effective. But now, are you saying that folks can already get that treatment as is?

Tierra Jones:
There is a difference between DUI court and what I am talking about, which is called DUI school. The DUI school is a counseling program for first-time offenders. First-time DUI offenders are usually not placed in the DUI court program. That program is a separate program that would come into play after the evaluation was done if you are at the 0.08 level, or upon your second DUI. We have a felony DUI court program for your third DUI to help you not serve prison time and get treatment instead.

Assemblyman Ohrenschall:
Has the DUI school for first-time offenders proven effective in terms of not having repeat offenders?

Tierra Jones:
I do not have the statistics; however, when this bill was in the Senate, there was a statistic given that two-thirds of the DUI offenders do not reoffend.

Chairman Horne:
Mr. Johnson, do you have additional testimony that you want on the record?

Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender's Office:
Very quickly, ditto to everything that my colleague from the south said. But to reinforce that, in an era of limited resources, judges are currently allowed to use judicial discretion to target individuals whether they have a 0.08 or a 0.15. That is the right way to go. We urge you to keep the law as it currently is.

Chairman Horne:
Are there any other questions from the Committee? I see none. Is there anyone else who wishes to testify in opposition to S.B. 91? There are none, so we will move to neutral. Is there anyone here to testify in the neutral position? I see none.

We will close the hearing on Senate Bill 91. Thank you everyone for testifying this morning. That concludes the bills that we had on the agenda today. We will bring them back and have work sessions soon. Is there any other business to come before the Committee? I see none.

[All exhibits on the Nevada Electronic Legislative Information System that are not mentioned in testimony are made part of the record (Exhibit G).]

We are adjourned [at 10:32 a.m.].

RESPECTFULLY SUBMITTED:

_____
Karyn Werner
Committee Secretary

APPROVED BY:

_____
Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 3, 2011 **Time of Meeting: 8:13 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
S.B. 42 (R1)	C	Brett Kandt, Special Deputy Attorney General, Office of the Attorney General	Letter dated May 2, 2011, from the Office of the Attorney General
S.B. 42(R1)	D	John Johansen, Highway Safety Representative and Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety	Handout on BAC Testing of Surviving Drivers from the Department of Public Safety dated May 3, 2011
S.B. 91	E	John Johansen, Highway Safety Representative and Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety	Handout on High BAC Definition from the Department of Public Safety dated May 3, 2011
S.B. 91	F	Kathleen Bienenstein, Program Coordinator, Nevada Affiliate of Mothers Against Drunk Driving	Prepared testimony
S.B. 91	G	Ralph Blackman, President, The Century Council	Letter dated May 3, 2011, from Ralph Blackman, President, The Century Council