

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Sixth Session  
May 12, 2011**

The Committee on Transportation was called to order by Chair Marilyn Dondero Loop at 3:23 p.m. on Thursday, May 12, 2011, in Room 3143 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/](http://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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn Dondero Loop, Chair  
Assemblyman Jason Frierson, Vice Chair  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman Steven Brooks  
Assemblyman Richard Carrillo  
Assemblywoman Olivia Diaz  
Assemblyman John Hambrick  
Assemblyman Scott Hammond  
Assemblyman Joseph M. Hogan  
Assemblyman Randy Kirner  
Assemblywoman Dina Neal  
Assemblyman Mark Sherwood  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Kelvin Atkinson (unexcused)

**GUEST LEGISLATORS PRESENT:**

Senator Shirley A. Breeden, Clark County Senatorial District No. 5  
Senator Michael A. Schneider, Clark County Senatorial District No. 11

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Committee Policy Analyst  
Darcy Johnson, Committee Counsel  
Jordan Neubauer, Committee Secretary  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Kevin Larsen, Lieutenant, Nevada Highway Patrol, Department of Public Safety  
Traci Pearl, Chief and Highway Safety Coordinator, Office of Traffic Safety, Department of Public Safety  
A. J. Delap, Government Liaison, Office of Intergovernmental Services, Metropolitan Police Department, City of Las Vegas  
Fred L. Hillerby, representing Verizon Wireless  
Mike Draper, representing General Motors Company  
Ted J. Olivas, Director, Administrative Services, City of Las Vegas  
Michael Geeser, representing AAA Nevada  
Sandy Watkins, Private Citizen, Las Vegas, Nevada  
Brian LaVoie, representing Hillary LaVoie Effort  
Capri Barnes, Private Citizen, Las Vegas, Nevada  
Tim O'Shea, State Government Liaison, Nevada Section, American Radio Relay League; and Assistant Washoe County Emergency Coordinator, Amateur Radio Emergency Services  
Thomas Tabacco, Amateur Radio Operator, Mound House, Nevada  
Dee Arnold, representing Amateur Radio Emergency Services  
Allen Lichtenstein, General Counsel, American Civil Liberties Union of Nevada  
Movell Ward, Amateur Radio Operator, Reno, Nevada  
Gary Grant, Amateur Radio Operator, Reno, Nevada  
Kyle Davis, representing Nevada Conservation League  
Dan Zielinski, Senior Vice President, Public Affairs, Rubber Manufacturers Association  
Sean T. Higgins, representing Terrible Herbst Incorporated

Wayne A. Frediani, Executive Director, Nevada Franchised Auto Dealers Association

Rob Melvin, representing United Nissan Las Vegas

John N. McCandless, President, McCandless International Trucks

Peter Krueger, representing Nevada Petroleum Marketers and Convenience Store Association

**Chair Dondero Loop:**

[Roll was called. Rules and protocol were stated.] We are going to start with the work session because Committee members will be in and out of our meeting today testifying in other committee meetings. I want to remind everyone that it is not customary for the Committee to take testimony or otherwise rehear the bills during a work session, but rather to take action on the bills. If a technical issue arises, the Chair, at her discretion, may ask a witness for clarification. Our Committee Policy Analyst, Jennifer Ruedy, will take us through the work session on Senate Bill 51 (1st Reprint).

[Senate Bill 51 \(1st Reprint\)](#): Revises provisions relating to the reporting of and imposition of penalties for certain convictions for the violation of certain traffic laws. (BDR 43-492)

**Jennifer Ruedy, Committee Policy Analyst:**

Senate Bill 51 (1st Reprint) was heard on May 10, 2011. The bill brings Nevada's laws related to compliance with out-of-service orders into alignment with federal rules. The bill requires the Department of Motor Vehicles (DMV) to impose a civil penalty and suspend the commercial driver's license of an individual found to have violated an out-of-service declaration in accordance with federal regulations. [Continued to read from [Exhibit C](#).]

**Chair Dondero Loop:**

I would like to entertain a motion.

ASSEMBLYMAN HAMBRICK MOVED TO DO PASS  
SENATE BILL 51 (1st REPRINT).

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

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

I will assign the floor statement to Mr. Carrillo.

**Assemblyman Kirner:**

I was not here during the presentation of the bill, so I was hoping to hear more conversation about it.

**Assemblyman Frierson:**

I am speaking in support of the bill. The presentation indicated that Nevada was no longer in compliance with federal regulations, and this bill was an attempt to update the *Nevada Revised Statutes* to reflect the *Code of Federal Regulations*.

**Chair Dondero Loop:**

Thank you. Mr. Kirner, does your vote still stand as a yea?

**Assemblyman Kirner:**

Yes, I appreciate the comments.

**Chair Dondero Loop:**

Today we will hear two bills. I will open the hearing on Senate Bill 140 (1st Reprint).

**Senate Bill 140 (1st Reprint):** Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)

**Senator Shirley A. Breeden, Clark County Senatorial District No. 5:**

I believe S.B. 140 (1st Reprint) will help with public safety in our state. I want to share staggering statistics concerning vehicle crashes and cell phone use and texting. Every 26 seconds in the United States, a crash is caused by a driver using a cell phone or texting. [Continued to read from ([Exhibit D](#)).]

With these statistics and as we all know, talking and texting on a cell phone has become an epidemic in the state of Nevada and throughout the nation. It is time for Nevada to step up and put something on the books. Last session I submitted a bill to ban texting only. It was not successful. I decided to come back this session and include cell phone use.

I want to go through the bill now. We are on the first reprint of the bill because we made revisions on the Senate side. Section 1, subsection 1 says: "Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State: (a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in

nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging."

Section 1, subsection 1(b) says: "Use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device." The accessory would be a Bluetooth device or sometimes an earpiece comes with the cell phone.

Section 1, subsection 2 says: "The provisions of this section to not apply to: (a) A paid or volunteer firefighter, emergency medical technician, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment." There was some discussion and confusion about that paragraph. Some people thought we were exempting all paramedics and emergency responders, but that is not true. It is only when they are working within the scope of their job duties.

The next exemption is section 1, subsection 2(b): "A person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment." I will be offering an additional conceptual amendment ([Exhibit E](#)). Frank Adams came to me and indicated that in several cases they use search and rescue personnel for help when there is an emergency. Sometimes when they are out in the mountains, they have to rely on a cell phone. They are exempted, but only during an emergency.

The next exemption is section 1, subsection 2(c): "A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity." That could be you, me, or a neighbor.

The next exemption is section 1, subsection 2(d): "A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous."

The next exemption is section 1, subsection 2(e). I put this section in after speaking with some representatives from Amateur Radio Emergency Services. We added: "A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a

disaster or emergency or otherwise communicating public information." After hearing their testimony and speaking to them, the intent of the bill was not to eliminate their essential functions, so I added that language.

Section 1, subsection 3 deals with the questions I received about global positioning or navigation systems: "The provisions of this section do not prohibit the use of a voice-activated global positioning or navigation system that is affixed to the vehicle." There were questions about portable global positioning systems, and in speaking with Legal, I found out that they are allowed as long as they are programmed and inserted into the holder before driving. The whole intent of the bill is to use a hands-free device.

Section 1, subsection 4 deals with the fines. The fines are another compromise. The fines were higher in my original bill. The first offense is a fine of \$50, the second offense is a fine of \$100, and the third offense is a fine of \$250.

Section 1, subsection 6 says: "The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation." The first offense would not be reported to the offender's insurance company.

Section 1, subsection 7 was a compromise at the request of Google, Inc. It says: "For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law." If indeed a car actually drives by itself, the person who is sitting behind the wheel—but not actually operating the vehicle—would be allowed to text because he is not driving the vehicle.

Section 1, subsection 8 is the definition of "handheld wireless communications device." We worked with Legal in changing this definition: "a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if: (a) The person using the device has a license to operate the device, if required; and (b) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held." The reason why we worked so extensively with Legal is because we did not want to harm the trucking and taxicab industries or any individual who needs push-to-talk radios as a part of his essential job functions with

dispatch. We did not want to harm any industries that require push-to-talk radio communications. The Amateur Radio Emergency Services, with their push-to-talk microphones, would fall under this section.

Section 2 is language already written. We added in an effective date in section 4. The effective date is not until January 1, 2012. If the bill is successful and passes, starting July 1, 2011 until December 31, 2011, officers can pull people over, but the officers would only educate people about the bill being successful. It is an educational piece to make people aware. Starting January 1, 2012, people would be able to receive a citation. We will be working with the Nevada Department of Public Safety to get the word out.

**Chair Dondero Loop:**

Please go through the amendment ([Exhibit E](#)), and then we will ask questions.

**Senator Breeden:**

[Explained ([Exhibit E](#)).] Page 2, section 1, subsection 2(b) is the area where we made exceptions. We thought we had captured all law enforcement in the original exclusion. However, we found out that the marshals in the City of Las Vegas do not report to the sheriff. Because they are categorized as law enforcement, we would like to change the language to broaden the public safety exception, so that it includes any "law enforcement officer," as well as "any other person designated by a sheriff or chief of police of the Director of the Department of Public Safety." We are just changing a couple of words so the marshals are included in the exception.

On page 3, section 1, subsection 3, we are changing the word "voice-activated" to "voice-operated." The reason for that is because even though we modeled our bill after the Utah law, "voice-operated" is national language that is actually used more than "voice-activated." That is a minor change as well.

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**Assemblyman Hambrick:**

I appreciate the amendment, and I am sure many of us received phone calls from constituents. I received three specific calls from members of the medical community, doctors. Doctors are usually on call. One of my constituents is a resident doctor in an emergency room, and the other is an ob-gyn. The ob-gyn has a lot of patients who are expectant mothers, and he was wondering if he would be exempt from this law. I do not know how we can add medical

personnel or physicians to make sure if they are on call, they can answer their cell phone. How can we handle that?

**Senator Breeden:**

If you look at page 3, section 1, subsection 2(d), it says: "A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver . . . ." They would be covered under that section.

**Assemblyman Hambrick:**

If you keeping reading it says, ". . . or another person and stopping the vehicle would be inadvisable, impractical or dangerous." It says "responding," and when they initially get the phone call, they are not responding; they are just answering their phone knowing they are on call.

**Senator Breeden:**

They are considered medical emergency. Look at section 1, subsection 2(c): "A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity." They are not actually the ones reporting, but they are a medical provider and they would be responding to an emergency; having a baby is an emergency. Females like to have their doctors available. If there is specific information or a couple of words you want to add, we can work with Legal.

**Chair Dondero Loop:**

Would this be a situation where the physician could use a Bluetooth device?

**Senator Breeden:**

That is correct. The whole intent of the bill is to allow a hands-free device. If you have to push buttons, it is not acceptable.

**Chair Dondero Loop:**

Most physicians may not have new cars, but they drive cars like we do. I drive an 11-year-old car and I drive hands-free. I think it would be easy for physicians to do so as well. Are there any more questions?

**Assemblyman Sherwood:**

One thing I did not notice in the bill was whether this was a primary offense or not. You referenced seat belt laws as being a secondary offense. Would this be a primary offense, secondary offense, or is it still in limbo?



**Senator Breeden:**

As I mentioned, there is a six-month education piece from July 1, 2011 to December 31, 2011. Starting January 1, 2012, the first offense is a \$50 fine. It is not considered a moving violation, so the offense would not be reported to the Department of Motor Vehicles (DMV). If you are a repeat offender within seven years, then you would receive a second offense citation of \$100.

**Assemblyman Sherwood:**

If a police officer sees you, he can pull you over and say he saw you talking on your cell phone?

**Senator Breeden:**

If you are holding it, yes.

**Assemblyman Hammond:**

If I am holding a cell phone and it is not on, I get pulled over; but if I am holding a hamburger in my hands, I am fine.

**Senator Breeden:**

This bill does not address hamburgers.

**Assemblyman Hammond:**

My point is, what if the cell phone is not on and I am just holding it? I get pulled over, and I have to talk to the officer and explain to him that it was not on.

**Senator Breeden:**

The whole point of the bill is to use hands-free devices. If you are holding the phone and it is not on, you would have to address that with the officer. I cannot sit here and defend someone who is just holding the phone.

**Assemblyman Hammond:**

The reason why I am asking this is because if I am holding a hamburger in my hands and I am not able to drive the car properly and I swerve, I would imagine the cops would be able to pull me over and give me a ticket for inattentive driving. The same goes for a cell phone. I believe there are laws right now that say if you cross over the line or if you are swerving, you are able to receive a citation. I got pulled over in California; I was driving around lost and my wife was telling me to pull over so I did. I think I pulled over three times within one minute, and finally the police officer pulled me over and asked me if I had been drinking. Can the cops already pull someone over for inattentive driving?

**Senator Breeden:**

I know there are law enforcement officers here; maybe they can answer the question.

**Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

Yes, there are laws on the books. There are local ordinances called full time and attention and there is also a state ordinance. The difference between a hamburger and a cell phone is that it does not take a lot of cognitive ability to eat the hamburger and drive at the same time. When you are dealing with a cell phone and texting, you are dealing with a lot of cognitive action, and it takes your mind away from your driving. For example, my cousin was sitting at a stoplight and her friend was behind her. The friend was texting, the light turned green, and she rear-ended my cousin. Because of the cognitive distraction, she did not realize there was another car in front of her even though she knew her friend was there. You can be pulled over for distracted driving and not being able to keep the proper lanes, but we are talking about the difference between cognitive initiation and distracted driving.

**Assemblyman Kirner:**

I have occasionally seen people using cell phones as walkie-talkies. Does this bill prohibit that?

**Senator Breeden:**

I have never seen a cell phone with a push to talk device. If it is a walkie-talkie and it is in your hand, it is not acceptable.

**Assemblyman Kirner:**

I have seen them at construction sites.

**Kevin Larsen, Lieutenant, Nevada Highway Patrol, Department of Public Safety:**

We do use handheld push-to-talk radios for our communications through our dispatch center. We hang them up when we are done with them. We do not just drive around with them in our hands.

**Assemblyman Kirner:**

Private citizens can buy these push-to-talk phones as well.

**Kevin Larsen:**

They show the same distractions as a regular cell phone. If you are concentrating on pushing the button and talking, you are not focused on the road and what is around you when you are driving.

**Assemblywoman Neal:**

We had a similar bill earlier this session, and it looks like you are going to give the same presentation as we heard before. The questions we asked were concerning how many accidents had occurred due to text messaging. I think it is relevant to have the discussion about the cognitive use we apply when we are texting versus other kinds of distracted driving that might also be implicated with this bill. Is that going to be part of this discussion?

**Senator Breeden:**

Traci Pearl said yes.

**Assemblywoman Benitez-Thompson:**

I know we are getting ready to introduce data. I think it is similar to data we heard earlier this session. I want to say that I do not want people who are not traditionally in the Legislative Building to get the impression that the Committee takes this anything less than very seriously. I know we are going to hear from people who have had their lives touched in a very tragic way because of people who were driving and using cell phones. I want to make sure people know these are policy questions. In no way do I want to make light of this situation because I think this bill is worth considering.

**Assemblyman Hambrick:**

Mr. Kirner was talking about Sprint Nextel. They have a push-to-talk phone. My daughter came to our home in Las Vegas and was actually able to do it with her cell phone. It is a walkie-talkie, but I think the way you are talking about it, it would not apply. The technology is from Sprint Nextel and it may be obsolete soon.

**Kevin Larsen:**

They are push-to-talk phones. They are a distraction when you are driving, and according to this bill they would be not acceptable.

**Traci Pearl, Chief and Highway Safety Coordinator, Office of Traffic Safety,  
Department of Public Safety:**

You have heard this presentation before, so I will briefly go over the highlights to provide you basic data about what is happening nationally and what is happening in Nevada. All of the data is from 2010. [Read from ([Exhibit F](#)).]

**Assemblywoman Neal:**

In 2007 and 2009 there was a reduction in injuries versus 2005. Why was there a reduction? There was an increase in texting, but there may have been campaigns about texting that may have reduced the number, and therefore, you

do not have the same kind of injury numbers that may have existed prior to the messaging campaign.

**Traci Pearl:**

The highest year on record for fatalities in Nevada was 2006 with 432 fatalities, and 2005 was right below it. In 2009 we cut that by almost a third to 243 fatalities. Some of this is reflecting hard numbers. We went from 432 fatalities to 243 fatalities in two years. It might be the same percentage, but it is a smaller number because there were fewer crashes in those years all together. Distracted driving as defined by the Fatality Analysis Reporting System (FARS) does include cell phone use. It also includes eating, talking to kids in the backseat, putting on makeup, et cetera, so I cannot say the national number is specific to cell phones and texting. It includes other definitions. Our police accident reports in Nevada have a section on causation that includes cell phone use. It is a fairly new section. Law enforcement needs additional training. The Nevada Traffic Records Coordinating Committee developed the form; it is a standardized form for all police officers, and they are looking at making it more clear to say whether someone was texting or talking on a cell phone. Since 2003, the data has been picked up off of police accident reports.

**Assemblywoman Neal:**

Is the 2009 injury accidents of 1,202 not an actual number that can reflect texting? Would we have to break that number out and figure out how many injuries were caused by something else? When we talk about the need for legislation that limits texting, what kinds of other data can we use to support the need versus other states choosing to ban texting?

**Traci Pearl:**

Unfortunately, this is a fairly new field. There is not a lot of data out there, which is why everyone is rushing to make laws and complete studies. Currently eight-year-olds have cell phones, which they did not two or three years ago. I cannot extrapolate from these numbers what was eating or turning around talking to kids in the backseat. At the time these were made, the training had not yet been conducted for law enforcement, and it still has not been conducted. Law enforcement sometimes has to play a guessing game. If someone died in the accident, how is the officer supposed to know he was talking on his cell phone?

**Assemblyman Brooks:**

Thank you for the statistical data. I understand the importance of texting and talking while driving. They have devices you can put into your car so you do not have to hold the phone to your head. We heard a bill similar to this earlier this session; I was wondering if at some point these two bills would combine?

**Chair Dondero Loop:**

What will happen is the sponsors of the bills will get together and make decisions.

**Assemblyman Hammond:**

I know some states are just coming on board with this because it is a new trend. I believe Washington is a state that has had this law for four or five years. They probably have statistics with studies that have been completed. Can you tell me what happened with the number of accidents after texting and cell phone use was banned? Was there a spike or significant decrease?

**Traci Pearl:**

I can find the information for you. When I talked to Washington's Traffic Safety Commission, I was mainly concerned about the lessons they learned with the law language.

**Assemblyman Hammond:**

One of my concerns is people who are going to use cell phones to text are going to use it somehow, someday. When they text now, they hold their phones up in front of their face. When this law passes, I expect their phones to go down below the steering wheel, where law enforcement will not be able to see it. I think we may see a spike in the number of accidents. I am on board with this bill, but I think we need to educate people, so they know how dangerous it is. When we ban it, it goes underground, and I am afraid the number of accidents will increase.

**Traci Pearl:**

There was a study conducted by the Insurance Institute for Highway Safety in September 2010 on four states that had passed the law. They reported that crashes increased after texting bans were enacted. There was initially a spike in California, Washington, Louisiana, and Minnesota after reviewing collision claims. Allstate and AAA indicated that it is not realistic to expect that simply enacting a law to ban texting or cell phone use while driving will have a large immediate impact on crash totals in a state in the first months. Well-established safety research suggests changing dangerous behavior takes well-written laws, strong public outreach, high visibility enforcement, and substantial penalties for violations in adequate time. They were still violating the law and doing just what you said. They were moving the cell phone from the top of the steering wheel to beneath it, which makes them really distracted. At least when the phone was up, they were putting their head forward.

**Assemblyman Hammond:**

From what I have read so far, when radios were introduced in cars, they had the same concern and eventually technology caught up and we found ways of getting around it. I see the same thing here. I take this seriously.

**Assemblywoman Neal:**

In the eight states that prohibit handheld cell phone use, does that mean they are hands-free? If so, what is the accident rate for the states that have now taken on the hands-free law?

**Traci Pearl:**

I cannot answer that question now, but I can get you the information.

**Chair Dondero Loop:**

Are there any more questions from the Committee? [There were none.] Is anyone in support?

**A. J. Delap, Government Liaison, Office of Intergovernmental Services,  
Metropolitan Police Department, City of Las Vegas:**

We are simply coming to the table to provide our support for S.B. 140 (R1). We think it is good legislation. We think it is going to provide another mechanism to help make our community one of the safest in the country, and we urge your support for the measure.

**Frank Adams:**

We represent all of the Nevada law enforcement agencies both at the state and local level. We have been working with Senator Breeden for the last two sessions to craft a bill that will not only protect our citizens, but also allow the officers to enforce the law. There have been some changes made, and we support the amendments that were made in the Senate and the conceptual amendment proposed today by Senator Breeden ([Exhibit E](#)). We believe this is a serious matter, and there is a tremendous difference between drinking a soda or eating a hamburger and having cognitive distraction while driving. We think this bill will help us make our roads safer.

**Fred L. Hillerby, representing Verizon Wireless:**

We are in support of the bill. We believe this is a very important public policy issue. We want to do our part to support what we think will improve the safety of the motoring public, and I think this is a very important measure. From my own experience driving down the road, if I see someone all of a sudden slowing way down, driving fast, or driving erratically, I will bet you 9 times out of 10 when I finally get by him, he is talking on his cell phone. I always want to yell at him and tell him he is going to cause everyone to lose the use of their cell

phones. It is a common sense issue. It is distracted driving that causes accidents and kills and injures people.

**Chair Dondero Loop:**

Thank you. Are there any questions for these three people?

**Assemblyman Hammond:**

I think we would all like to see a reduction in the number of people driving distracted and abusing something we would all like to be privileged enough to use. I am looking at testimony Mr. Callaway submitted in the Senate. He said the distinction in the law concerning inattention to driving is usually applied after the fact. To me, "usually" indicates it can be used beforehand and afterwards. If there is an accident, you can check afterwards if there was a cell phone and if it was on, just used, or if they just sent a text message, so you can actually fine them for inattentive driving. I am curious, what does he mean? Can it be used before an accident occurs?

**A. J. Delap:**

I think what he was speaking towards was what is currently on the books in Clark County: full attention to driving or driving in a careless manner. There are elements to that which need to be met in order for an officer to conduct a stop of that vehicle. Some of the elements are not maintaining your lane properly, disobedience to traffic signs, et cetera. I wrote about 4,000 inattentive driving tickets last year. However, we do not distinguish whether or not they were related to an accident. The use of a cell phone or texting takes up so much more mental ability than drinking water or eating a hamburger. It distracts people from the immediate occurrence that will happen in front of them. You may be maintaining your lane properly, but you are not paying attention to what you are doing. This legislation is going to allow the officer to see a person not paying full attention, providing a danger to the other members of the public using the roadway, and it is going to allow the officer to stop the vehicle.

**Assemblyman Hammond:**

With the 4,000 tickets, you do not know whether they were given out prior to an accident or afterwards?

**Frank Adams:**

In order to write a citation for full time and attention, I would have to see the person do something such as going too slow or weaving in and out of the lane. He would have to be distracted. He would have to have some reason to draw my attention. I think what we are saying with this bill is the mere use of the cell phone engages cognitive thinking, and you are not engaged in driving properly.

**Assemblywoman Benitez-Thompson:**

Within the presentation there were comparative risk factors. It said someone who was driving and texting was 23 times more likely to cause a crash. I am wondering, is there any other type of behavior, other than being under the influence or driving with your eyes closed, you think is more dangerous than texting while driving or that you know of in terms of data?

**A. J. Delap:**

I have worked for the Las Vegas Metropolitan Police Department for 14 years; no, other than seeing a person drive drunk, they are very similar in nature. Being out on the streets on a regular basis, making a living, I see them a lot. I see them everywhere on duty and off duty; it is very scary. As a law enforcement officer, I am more concerned about my family being injured in a car accident than I am them being victims of violent crime. That is my big fear, and I think this is good legislation.

**Mike Draper, representing General Motors Company:**

We proudly support this bill and the proposed amendments. We are a member of the Alliance of Automobile Manufacturers, and they also support this bill and the amendments.

**Ted J. Olivas, Director, Administrative Services, City of Las Vegas:**

The City of Las Vegas is in support of this bill, and we wanted to thank Senator Breeden for working with us and for the clarifications she described in the minor amendment she provided.

**Michael Geeser, representing AAA Nevada:**

We support the bill.

**Sandy Watkins, Private Citizen, Las Vegas, Nevada:**

I am here to support S.B. 140 (R1). I have a personal relationship with this bill. Seven years ago my son and his wife were victims of a car crash caused by a driver who was talking on her cell phone. She was so distracted in her conversation, driving at the speed of 75 miles per hour that she did not even see them. We almost lost Jennifer; they had to resuscitate her. She went through six surgeries, spent several weeks in the hospital, and lost almost two years out of her life learning how to do everything all over again. My son still suffers from migraine headaches every day, he takes three prescriptions, sees a neurologist, and lost every childhood memory he ever had. Every day we see it more and more. People text and talk on their cell phones and drive erratically because of it. We see so many lives being shattered and changed forever as these two young lives have been. It not only affects the victims, but it affects their families as well. They both have brain injuries that will never go away.



They will never be the same again for the rest of their lives. We see statistics, but they are so much more than just numbers; they are human beings with faces and names. They are sons, daughters, mothers, fathers, brothers, and sisters. They are people that are being lost and lives changed forever. We need your help to save lives and prevent injuries. We do not want others to go through what we have. We have suffered so much pain because of someone talking on her cell phone and driving. Thank you for giving me the opportunity to testify in support of S.B. 140 (R1).

**Brian LaVoie, representing Hillary LaVoie Effort:**

I represent the Hillary LaVoie Effort and the surviving family members of Hillary LaVoie in support of S.B. 140 (R1). Hillary was killed in a single-vehicle crash on September 26, 2010, eighteen days after her eighteenth birthday. Speed, inexperience, and the use of a cell phone caused the horrible crash that killed my beautiful daughter that day. [Continued to read from ([Exhibit G](#)).]

**Capri Barnes, Private Citizen, Las Vegas, Nevada:**

I am testifying in support of S.B. 140 (R1). I have been passionate about this bill since it was first presented to the Senate. I stated I was testifying on behalf of myself, but I am also testifying on behalf of my generation, who, as time advances, continues to age. As a teenager, I am passionate about the bill because teenagers do not pay attention in cars when their cell phones are present. My generation refrains from thinking of others or ourselves because the moment is what we live for. The unanswered text or phone call is more threatening than the potential reality of our consequences. A law needs to be in place with consequences for distracted driving: a law with serious consequences, serious fines, and serious law enforcement to see these consequences. Monetary fines do intimidate teenagers; \$50 is the monthly payment for an iPhone with a 2-year contract, \$100 is a yearbook, and \$200 is a nice amount of money given from grandparents for graduation. The penalty being a prison term with fines if death or substantial bodily harm results from a violation is favored because, voicing on my behalf, we do not take the law serious enough unless the law's punishments reflect upon our mistakes. For life-ending or -altering mistakes, the violation of texting does not bear enough justice. I agree that no one aside from emergency personnel on duty should be exempt from this ban.

I support this bill as a teenager for the last time today. I turn 20 years old this weekend. The bill does not differentiate amongst age, and teens are not the only offenders using cell phones while driving. We lead by example. Death does not have an age. I can guarantee you: at least this weekend, 19 people will be distracted driving to work; 19 people in the entire country have been in accidents today or within this weekend due to the distraction of a cell phone;

19 cars have been totaled by the effect of someone driving distracted; and at least 19 humans with pulses will not make it to see themselves, children, or grandchildren make it to 20 years old, like I will this weekend, because of a distracted driver. I encourage all of your support for this bill in memory of the souls who no longer have a voice and the rest of Nevadans who do not always make the correct choice.

**Chair Dondero Loop:**

Are there any questions from the Committee? [There were none.] Is anyone else in support? [There was no one.] Is anyone opposed?

**Tim O'Shea, State Government Liaison, Nevada Section, American Radio Relay League; and Assistant Washoe County Emergency Coordinator, Amateur Radio Emergency Services:**

I am with the American Radio Relay League, Nevada Section, an organization that represents 156,000 amateur radio operators nationally and 9,000 amateurs in Nevada. Our concern with S.B. 140 (R1) was in the original language of the bill, how broad that language appeared, and that amateur radio ended up as an unintended victim of the bill. Not only amateur radio operators, but taxicab companies, truckers, and other users of two-way radio systems. [Continued to read from ([Exhibit H](#)), which explained ([Exhibit I](#)).]

In this bill, most other two-way radio users are exempted from this bill as long as there is a corded microphone. There was some language that appeared that surprised us about amateur radio microphones that have control over the radio attached to it. There are very few commercial radios or any other type of two-way radios that have these types of buttons on the microphone. We have heard testimony about cognitive operation. If you ask any police officer or fireman, after a period of time it does not take much to realize how to operate the radio. It becomes second nature. It is the same thing for amateur radio operators.

Senator Breeden talked about handheld global positioning systems; she claimed they were fine if you programmed it before you start driving. That is true with handheld radios as well. They are preprogrammed. I have over 300 frequencies of either repeater frequencies or simplex frequencies. Every amateur mobile operator who uses a mobile radio or a handheld device has the frequencies preprogrammed into the radio just as the global positioning system is programmed. The only difference is, with the amateur radio, you do have it in your hand and you do talk into it, but you always have your eyes on the road. We are not going down the road pushing multiple buttons, just the push-to-talk switch.

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**Assemblyman Hambrick:**

Who are the emergency managers from Clark County and Washoe County you referred to?

**Tim O'Shea:**

In my testimony ([Exhibit H](#)) I referenced Aaron Kenneston, who is the hired Washoe County Emergency Manager and operates the Regional Emergency Operations Center in Reno, Nevada. His job is to coordinate and manage any type of emergency or disaster. The Amateur Radio Emergency Service actually has a presence in his Regional Emergency Operations Center. We are right there in the midst of everything as far as emergencies or disasters are concerned. I am the Assistant Emergency Coordinator, and I am right there with him and so deep into this that on the reverse 911-system when he feels there is an emergency or a need to staff the Regional Emergency Operations Center, I am one of the people who gets called.

Clark County is the same way. They have a hired emergency manager. In southern Nevada in December, there were numerous floods in Mesquite and at Mount Charleston. The emergency manager is the one who called out the amateur radio operators to support her effort in managing the crisis, and it was amateur radio operators who were providing up-to-the-minute, accurate information.

**Assemblyman Hambrick:**

In your testimony you said they were officially opposing this bill?

**Tim O'Shea:**

No, sir. They are supporting our request for an exemption—not from the cell phone texting portion of the bill, but in the definition of a handheld wireless device. The way the definition reads right now, an amateur radio operator who is providing emergency information could not use the radio nor could he use our regular mobile amateur radios that have the buttons with which you can control the radio on the microphone. Amateur radios are different than commercial radios. Most commercial radios have one frequency and that is all. Law enforcement have radios of multiple frequencies, but you push a button or turn a knob to change the frequencies. Amateur radios are more complex. They have the ability to use multiple bands over a wide spectrum of communication frequencies. Some radios are very simple like this one, which is a dual-band. [Held up radio seen in ([Exhibit I](#)).] We have a member back here who has a truck that has \$35,000 worth of radio equipment, and he can talk on anything.

**Chair Dondero Loop:**

Thank you. Do you support the bill?

**Tim O'Shea:**

I did not know how to check the box. We all support the cell phone texting portion of the bill. We have seen the carnage and the victims. Our concern is the ability to use our devices while operating a motor vehicle when other classes of operators like truckers or any other people are free to use their radios. Our exemption is based on our emergency service we provide freely to the state and citizens of Nevada. We support the bill but oppose the handheld wireless definition, and we are seeking an exemption specifically to that.

**Thomas Tabacco, Amateur Radio Operator, Mound House, Nevada:**

I strongly support the premise of the bill. I am an amateur radio operator and because of section 1, subsection 8(b), I would not be able to operate my equipment. It would allow anyone else to operate his radio. The manufacturers cannot put the keyboard on the radio itself; they have to put it on the microphone. It is only a numeric keyboard, it cannot text, and it is preprogrammed. Section 1, subsection 8(b) should be eliminated.

**Dee Arnold, representing Amateur Radio Emergency Services:**

My opposition is the same as Thomas Tabacco and Tim O'Shea. I am the Assistant Emergency Coordinator for the National Weather Service for the Amateur Radio Emergency Services. I work through the National Weather Service with the State of Nevada Division of Emergency Management. I depend on people driving home from work or even request people to go from one stop to another to give me weather information on the Pine Nut Mountains, Petersen Mountain Range, Dog Valley—all of the valleys we have around here that can be subject to severe critical weather. I spend 10-plus hours doing this when I get called out. At that particular spot, my call sign is WX7RNO. That is the official radio call sign for that particular group. I am requested by the ladies and gentlemen of the National Weather Service. I support the rest of the bill, but that one section should be eliminated.

**Tim O'Shea:**

The program Ms. Arnold is speaking of is called the SKYWARN program. It is a program administered through the National Weather Service and uses amateur radio operators to provide on-the-ground weather information. As many of you may not know, the National Weather Service can only see about 10,000 feet and above with their radar. For everything that is happening on the ground, they depend on trained weather spotters, which many of the amateur radio operators are. This program requires the use of amateur radio operators to provide the weather information. This is another reason why amateur radio

operators should be authorized an exemption from this bill. Without this exemption, we could not provide that important information to the National Weather Service.

**Assemblyman Hogan:**

I wanted to ask a little bit about how much time the amateur operators use their equipment in the vehicle. How long are they actively engaged in a two-way conversation as opposed to having to call in and get prerecorded information? We do not want to interfere with proper helpful things people are doing, and I think most of us know that the rescue work and the assistance you provide law enforcement is often crucial, and we appreciate that. We are concerned about the communication providing a distraction and reducing the skills of driving. It seems to me to the extent that you are actively engaged in a conversation, you are putting some demands on your mental focus doing something other than driving. I was curious if it is just occasionally that the amateur radio operator makes a two-way call while driving or if it is more frequently that you are actually dialing into a broadcast, which would not be as mentally distracting.

**Tim O'Shea:**

Amateur radio operators use their radios everyday. It may be a two-minute conversation or it may be longer. There are networks that amateur radio operators check into on a daily basis. Here in northern Nevada, we have a Western Nevada Noon Net. It is a place for amateur radio operators to congregate for information regarding amateur radio and amateur radio events. With some of our newer members, this is a training opportunity to learn how to use and operate the radios. I have to remind you that there is no evidence that the use of an amateur radio causes any more significant crash risks than other distractions.

I am going to read from a letter received by the American Radio Relay League from the President and Chief Executive Officer of the National Safety Council ([Exhibit H](#)); her name is Janet Froetscher. Her letter states the following: "The National Safety Council position is grounded in science. There is significant evidence that talking on cell phones while driving poses crash risk four times that of other drivers. We are especially concerned with cell phone use because more than 100 million people engage in this behavior, with many doing so for long periods of time each day. This exposes these 100 million people and everyone who shares the road with them to this increased crash risk every day. This combination of risk and exposure underlies our specific focus on cell phones."

They do support a cell phone texting ban, but she goes on to say: "We are not aware of evidence that using amateur radios while driving has significant crash risks. We also have no evidence that using two-way radios while driving poses significant crash risks. Until such time is compelling, peer-reviewed scientific research is presented that denotes significant risks associated with the use of amateur radios, two-way radios, or other communication devices, the National Safety Council does not support legislative bans or prohibition on their use."

On one hand, we do have evidence that cell phone and texting causes significant problems, but there is no evidence that amateur radio or two-way radio use presents any crash risks. We do not have any problems with distracted driving.

**Assemblyman Kirner:**

The Senator has tried all she can to reach out and talk to people who have a vested interest in her bill. Have you or will you be willing to talk to the Senator? We are here to pass good law, not bad law. I know you have many people here with you.

**Tim O'Shea:**

We have exchanged emails and we tried to get together to speak one night, but I was at an Emergency Communications Conference when she called. She spoke to one of my associates.

**Assemblyman Kirner:**

We are not after bad law; I am sure she would entertain a conversation.

**Chair Dondero Loop:**

Thank you. Are there additional questions? [There were none.] Opposition?

**Allen Lichtenstein, General Counsel, American Civil Liberties Union of Nevada:**

My comments can also be attributed to the Nevada Attorneys for Criminal Justice (NACJ). We certainly have no objection to the intent of this bill. We do not want to suggest that somehow or another driving while texting is a good idea and should be supported or allowed. Specific bills have specific language, and sometimes there are some problems with unintended consequences of language.

Let me give you the easiest one: section 1, subsection 1 talks about operating a vehicle on the highway. It does not specify whether it is a moving vehicle. If you look at page 3, lines 3 and 4, it suggests they are talking about a moving vehicle as do lines 27 through 31. It is clearly not spelled out. Presumably what the bill is attempting to fix is not someone talking while the vehicle is

stopped on the side of the road; it is about a moving vehicle. The lack of clarity in language could end up being a problem.

It does not give a lot of guidance to law enforcement as to what is allowed and what is not allowed. An even greater problem is an omission of language; it does not give law enforcement any guidance as to under what conditions an officer can pull someone over for violation of this law. As it was mentioned earlier, there is a possibility that if this law was to pass the cell phone would go below the steering wheel to text. Does an officer have the ability to pull someone over for suspicion of texting? The driver may behave in a way that might be seen as texting. That is a problem because it opens up the field to pretext stops and profiling, which is the same problem that happened with the seat belt law, which is why it ended up being a secondary stop rather than a primary stop. Does the officer actually have to see somebody texting or using his cell phone? What are the particular ground rules? Nothing in this particular bill addresses that. If it is passed the way it is, the courts will end up dealing with that, so you are looking at litigation.

We are going to make two suggestions: one, there should be something in here that deals with this as a secondary reason for pulling somebody over as with the seat belt law. Two, in the absence of that, at least have something within this that requires some documentation of when stops are made, by whom, and the racial, ethnic composition of the people to avoid this turning into something different than what it was intended to be. While we have no objection at all to the intent, we think it is necessary to have very clear language that makes sure that this bill is used only for its stated intent and does not veer off into other areas.

**Chair Dondero Loop:**

Have you discussed this with the sponsor of the bill?

**Allen Lichtenstein:**

I personally have not. I do not know whether other members of the NACJ or American Civil Liberties Union of Nevada have, but we would certainly be happy to do so.

**Chair Dondero Loop:**

We are close to deadlines and this is the second house we are hearing this bill in. If you have those concerns, you might want to talk about them with the sponsor.

**Allen Lichtenstein:**

I would be happy to do so. In the first house we made comments.

**Chair Dondero Loop:**

If I am correct, law enforcement addressed those concerns and was fine with the language.

**Movell Ward, Amateur Radio Operator, Reno, Nevada:**

I have been licensed by the Federal Communications Commission since 1965. I have operated amateur radio equipment, both mobile and stationary. I operate under the regulations and guidelines of the Federal Communications Commission. There are no restrictions for me operating my equipment in a mobile situation, and I have done so for 46 years. We are governed by a federal organization with our license, but we have to meet the requirements of that license. We have to take an exam. I hold the highest class license available in amateur radio, and it required me to take an examination at the Federal Communications Commission office in Los Angeles, California. I do not know what effect that would have on this bill, but there is a federal agency involved in governing the licensing of amateur radio operators. I wanted to make that point, so you know there is a federal agency involved as well as the state of Nevada.

**Gary Grant, Amateur Radio Operator, Reno, Nevada:**

I am a volunteer for the Official Observer program of the American Radio Relay League's Nevada Section. I am an amateur radio operator of 55 years. Part of my job is to watch the frequency for intruders—either foreign or other amateur radio operators—and kind of patrol it. If it is severe enough, the information gets back to the Federal Communications Commission, which can offer a citation. I would like to mention that I am not against the bill as far as texting and cell phones; I think there is quite a bit of danger. The amateur radio is not a problem. I would like to tell you the ham radio is not a cell phone, so why include amateur radios in this particular bill? We are licensed and we follow rules and regulations. Amateur radio operators need to practice and operate their mobile and talk to anyone while mobile. We have been doing it for years, and it is not a problem. However, by us having our radios in our cars, many lives have been saved, not only in Nevada but across the country. While driving on our roads and freeways, many reports are radioed in directly to the police department and the Nevada Highway Patrol—not only in emergencies, but while driving. Please do not restrict amateur radios. The way the bill is written, it would be restricted. When you see a ham radio license on a vehicle or motor home like I have, we have an obligation to the state of Nevada to be involved in emergency communications. We have to sign it to get a waiver with the DMV, so we can reduce our license fee.

I have some other information regarding the National Weather Service, and I know Ms. Arnold covered it well, but I got this off the Internet today. It is a



hazardous weather outlook for extreme southeast Arkansas for the activation of storm spotters or weather spotters and ham radio operators; emergency management personnel are getting a call right now. Getting back to the National Weather Service offices across the country, last year they logged more than 16,209 radio contacts according to David Floyd, N5DBZ, the Warning Coordinator Meteorologist in Goodland, Kansas. Spotters at the local office provided critical ground truth information for forecasters. That information can be correlated with Doppler radar displays in conditions of blowing snow, which we have had in this part of Nevada and many situations, and amateur radio operators have reported from their mobile operations.

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee? [There were none.] Is anyone else opposed? [There was no one.] Is anyone neutral? [There was no one.]

**Senator Breeden:**

I want to thank you for hearing my bill and all the testimony provided today. I would like to remind the Committee and members in the audience that the bill allows individuals to use a cell phone if indeed it is with a hands-free device via a Bluetooth or an earpiece. I extended the bill and made exemptions for the amateur radio operators. They can use their microphone if it is attached to their vehicle in the car and it is a push-to-talk microphone. It does not exempt them if they are using a walkie-talkie device in their hands. The intent of the bill is to be hands-free, and I just wanted to remind everyone. Thank you. I have spoken and worked with Legal extensively. I would be happy to speak with Mr. O'Shea. I would appreciate your consideration.

**Chair Dondero Loop:**

Are there any more questions from the Committee? [There were none.]

[Written testimony and pictures from Sandy Watkins ([Exhibit J](#)) and ([Exhibit K](#)), written testimony from Chad Dornsife ([Exhibit L](#)), and written testimony from Chuck Reider ([Exhibit M](#)) were submitted after the hearing, and Chair Dondero Loop asked that they be included as exhibits for the meeting.]

I will close the hearing on S.B. 140 (R1). We are in recess [at 5:27 p.m.].

**Chair Dondero Loop:**

We will reconvene [at 5:31 p.m.]. I will open the hearing on Senate Bill 144.

**Senate Bill 144: Requires certain garages to check and adjust the tire pressure of motor vehicles. (BDR 43-220)**

**Senator Michael A. Schneider, Clark County Senatorial District No. 11:**

Senate Bill 144 has brought out a lot of hooligans. This bill came out of the Legislative Commission's Committee to Conduct an Interim Study on the Production and Use of Energy as a result of Senate Concurrent Resolution No.19 of the 75th Session. You are probably wondering what this bill has to do with energy conservation. It has a lot to do with energy conservation. Today, as gas prices go over \$4 a gallon, this becomes even more important. The interim committee's goal was to reduce energy consumption. Oil and gas are energy users, and what was indicated during our interim study was that there are a large percentage of vehicles that have low tire pressure, exceedingly low tire pressure. Tires that are supposed to be at 32 pounds per square inch (psi) oftentimes are filled with only 22 psi. The gas mileage is affected greatly. People just do not check their tire pressure so we propose that when you take your car in to have a smog test or service check, the attendants also have to check your tire pressure. There is indication that over half the tires are improperly inflated in many areas. If your tires are improperly inflated, there goes your gas mileage, and the United States has to import a lot more oil. We import foreign oil. For the people who live in the Las Vegas Valley, we are in nonattainment with air quality, so it helps because you are not burning so much gas. That is the idea of the bill.

We had people testify on the Senate side. Former Senator Warren Hardy just happened to be there at the time and said his family has been in the tire business for 50 years and he knows a lot about underinflated tires. He said they are such a hazard that they create car wrecks. People should properly inflate their tires because it reduces auto insurance and other things; he had a list. It also reduces the burden on the University Medical Center of Southern Nevada in Las Vegas. It is an energy bill, but it also is a safety bill.

I know the editorial board at the *Las Vegas Review-Journal* thinks this is a stupid bill, but here we are. We passed it in the Senate. They think it is a personal responsibility, but a lot of people just get in their car and drive. They never get their tires checked; they do not even look at them until they have a flat tire. We thought if people had their tires checked when they had their smog test, they could make the choice about putting the air in or not. I know there are some people behind me that think this is the end of the world for their businesses. They think they may be sued if they check someone's tire pressure and then their tires blow up. They have an obligation to check the tire pressure. There are a lot of companies that can pull you in, and they will check your tire

pressure and oil just to try and get your business. The bill does not say if your tires are low, you have to buy new tires.

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**Assemblyman Sherwood:**

I have heard the same concern about liability and people getting taken advantage of. Sometimes people are older or not aware, and the shops talk them into buying new tires. You said liability was a concern, and then you said it does not matter because they are in business. Are you fine with that, or would you amend the bill?

**Senator Schneider:**

I do not see this bill being a gold mine for trial lawyers. If it is, please amend it. I do not see that. I bought tires at Discount Tire before, and I know if you just pull into their shop, they will check your tire pressure. They will add air for free and send you on your way. They believe if they extend that courtesy to you, when you buy tires the next time, you will come back. For the three minutes it takes them to check your tire pressure, you will come back. Now, are they liable?

**Assemblyman Sherwood:**

I do not know.

**Senator Schneider:**

I do not think so. They did it as a courtesy. I know in Las Vegas where it may be 118 degrees out, you could have been driving for a half hour and the tires are hot and expanded. Maybe your vehicle manual indicates that your tires should be at 32 psi, but they are at 30 psi and overinflated because of the heat and they would be at 28 psi. That is not what we are trying to get at here. We are trying to attend to the grossly underinflated tires. If your tires are a pound or two off, I do not see a problem; they would add a little air. I do not see how someone can sue if he left the auto shop and had a blowout. The garage would indicate that they just added air and maybe alerted you to any dangers such as a tire being worn out. I do not see that it as a big liability. I am not doing something to help the trial lawyers get rich.

**Assemblyman Carrillo:**

Section 1, line 3 says, "If a garage performs repairs on a motor vehicle . . . ." Is a repair something mechanical? If they get their oil changed, it is not a repair; it is a service.

**Senator Schneider:**

If you take your car in for a tune-up, they have to check your tires.

**Assemblyman Carrillo:**

If they are getting their oil changed at Jiffy Lube, a lot of times it is something that is extended automatically. What is the difference of a repair versus a service?

**Senator Schneider:**

We have never had that question asked; maybe we need to add the word "service" in addition to repair.

**Assemblyman Carrillo:**

I have worked in the industry, so I understand the difference between service and repair. I wanted clarification on repairs versus service.

**Senator Schneider:**

Excellent question. I think we should say repairs or service.

**Assemblyman Carrillo:**

You bring up a good point about the pressure in tires, and in southern Nevada we do have extreme temperatures to where you might have someone add air on a hot day during service, but if the car is in a repair shop, the car is sitting in the garage in a cooler temperature. If the temperature is 115 degrees outside, the tires can get up to 150 to 180 degrees depending on how aggressive the driver is and if the tires are underinflated. The pressure will be elevated because of that reason. A service shop will check the pressure with a pocket gauge, and that in effect is the pressure at that temperature. My garage is air-conditioned, and it is 70 degrees in my garage. How does temperature affect the pressure? Are the tires now underinflated at 70 degrees? Would the repair or service shop now be liable?

**Senator Schneider:**

I do not think so. I think everyone has to exercise a little common sense.

**Assemblyman Carrillo:**

Common sense is not always so common.

**Senator Schneider:**

I think people, shop owners, and typical grease monkeys are aware of the temperature. If a tire is reading 27 psi and it is 115 degrees outside, the tire is grossly underinflated. It becomes incumbent upon the serviceperson to let the driver know that the tires are low and to keep an eye on them. That will get

more business for the repair shop. My father was in the automobile business and I changed a lot of oil and did a lot of air pressure stuff. We have seen today that service has gone out the window. A shop that goes out of its way and informs the customers to keep an eye on their tires will get a lot more business. I do not think the shops are liable.

**Assemblywoman Woodbury:**

How will it be determined if a garage did not comply with this law? Is it just if there is one incident? What are the terms?

**Senator Schneider:**

It is a misdemeanor. Right now the Department of Motor Vehicles (DMV) goes around and does spot checks on garages all the time. It would not be any extra cost; they do spot checks on garages all the time now. They go around spot-checking the different garages making sure they are doing everything and not ripping the customers off. This would be one of the things that would be spot-checked.

**Assemblywoman Woodbury:**

Do the garages know that these people are DMV employees?

**Senator Schneider:**

No. Right now, there are garages that are being checked. The DMV will take cars to be repaired and smog tested, and they will set the cars up so they are defective. They see if the garages catch the defect, or if the garages are trying to oversell people on defects. They do that to check for consumer protection. I am sure when you take your car in, you do not know if the converter is broken. That is the way the DMV keeps everyone honest.

**Assemblywoman Woodbury:**

If the DMV finds one incident, would that be grounds to not renew registration? I did not see a provision, warning, or procedure.

**Senator Schneider:**

The Legislative Counsel's Digest says: "Section 3 of this bill excludes failure by a garage to perform the tire pressure checks required by section 1 as a violation for which a person is guilty of a misdemeanor." I would think they would come up with regulations for it.

There is an amendment from Rubber Manufacturers Association ([Exhibit N](#)). I think it is a friendly amendment. It says that the tire is to be brought to the pressure recommended by the manufacturer of the vehicle, not the tire

manufacturer. The manufacturer of the vehicle has recommended tire pressure for the particular vehicle.

**Assemblyman Brooks:**

The tire manufacturer has an established tire pressure, but can every tire actually be placed at that tire pressure? For example, if I have brand new tires it might be 35 psi, but if I have a tire that is on its last leg and I keep it at 30 psi because it might expand more in the heat, does this bill take that into account?

**Senator Schneider:**

No.

**Assemblyman Brooks:**

So they have to put in 35 psi no matter what?

**Senator Schneider:**

Yes, it should be set at what was recommended by the auto manufacturer.

**Assemblyman Brooks:**

Is that something a tire manufacturer would recommend? Should an older tire be the same psi as a newer tire?

**Senator Schneider:**

If you have an older tire, you are living on the edge. God better be on your shoulder. You are driving with old worn-out tires.

**Assemblyman Brooks:**

A jalopy? I used to drive one of those.

**Senator Schneider:**

Yes. Driving old tires down the road at 70 miles per hour and intentionally under inflating them, I would say you are living on the edge.

**Assemblyman Brooks:**

I can appreciate that; unfortunately, I have a lot of constituents that are living on the edge. What happens when the tire is defective? The tire might have an air bubble in it. I actually found out one day that I was driving with a tire that had an air bubble in it. I had a huge Suburban at the time with 35-inch tires. If someone has a defective tire, is the mechanic still held accountable to put it to the right air pressure?

**Senator Schneider:**

I will indicate to you that the mechanic would show you the bubble in the side of your tire and tell you to get the tire replaced.

**Assemblyman Brooks:**

They would not be held accountable?

**Senator Schneider:**

They would probably tell you that if they started putting air in it, it might blow up.

**Assemblyman Brooks:**

They would not be accountable to the misdemeanor if they did not fill the tire?

**Senator Schneider:**

No.

**Assemblyman Brooks:**

That is what I want to be careful of. When we legislate these things into law, we always have a jerk who wants to hold the law accountable to what it is and not use common sense. This is a little bit of why I am concerned. When I got to the tire shop, my tire was worn-out and there was a crack in the tire. I wanted the shop to just repair my tire, and they told me they would not repair it; I would have to buy a new tire. They said there was a law that they could not put plugs in tires anymore. My concern is that people go in and have their mechanic work on their car, and the mechanic tells them by law their tires have to be inflated, but he cannot inflate them because they are defective.

**Senator Schneider:**

I appreciate your concern, but that is why Nevada does spot checks all the time. They are checking auto repair shops to make sure the public is not getting ripped off. There are unscrupulous business people that will try that. They are trying it right now. Nevada is in action right now to stop that.

**Assemblyman Brooks:**

You can understand where I am coming from?

**Senator Schneider:**

I understand.

**Assemblyman Brooks:**

I remember when I was 18 my car needed a muffler and a radiator. By the time they were done, I had a new car. I do not want them to think they can sell me a new set of tires as well.

**Chair Dondero Loop:**

Thank you. Is anyone in support of the bill?

**Kyle Davis, representing Nevada Conservation League:**

We are in support of this legislation. Senator Schneider outlined the reason for it very well. Inflating tires to the proper pressure came up in the presidential campaign in 2008. It is a proven way to increase gas mileage and make cars run more efficiently. As a result, you are going to end up using less fossil fuel, and there will be fewer harmful emissions in our environment. We have an issue with air quality, especially in Clark County, and anything we can do to combat that problem is a good thing. We think this is a good step for Nevada to take, and I do not think it will be as onerous as you will hear.

**Dan Zielinski, Senior Vice President, Public Affairs, Rubber Manufacturers Association:**

Our trade association represents tire manufacturers who produce tires in the United States, and our members ship approximately 85 percent of the tires that are sold in the United States. The Rubber Manufacturers Association (RMA) does support the bill. We do have a small amendment ([Exhibit N](#)) to correct one inconsistency that tires should be inflated to the vehicle manufacturer's recommendation and not the tire manufacturer's recommendation. It is the vehicle manufacturer that establishes the tire pressure.

[Read from ([Exhibit O](#)).] Our members take safety as a very serious concern not only with the engineering and quality of the tires, but those tires also have to perform in the United States to the most stringent safety standards in the world. Our members conduct a good deal of tire safety education trying to educate people about the importance of tire care. We do so through a program we have called Be Tire Smart – Play Your PART, and coming up in the first week of June, we sponsor National Tire Safety Week.

We hope individuals will take responsibility for their part in making sure their tires perform by doing monthly tire checks and inspecting the tread regularly. Unfortunately that is not the case. In both phone surveys as well as measured tire pressure surveys we have done in the past, we have found that a good number of tires are underinflated. We checked more than 6,000 vehicles in 2010 and approximately 55 percent of them had at least one underinflated tire. In our latest phone survey, 46 percent of people said they regularly check their



tire pressure. Clearly, there is a lack of effort on the part of consumers that we think is necessary. The consequences of the lack of effort are worth noting. The National Highway Traffic Safety Administration estimates that nearly 600 fatalities and 33,000 injuries are caused or contributed by underinflated tires each year.

The fuel economy suffers. With properly inflated tires, motorists can save as much as 9 cents a gallon at the pump and that depends on the price of gas. This law will not affect people's monthly tire pressure; it will only affect them as they bring tires into service. We think it will bring a good deal of benefits for many people who do not check their tire pressure and are driving on dangerously underinflated tires and wasting fuel. [Continued to read from [Exhibit O.](#)]

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**Assemblywoman Diaz:**

Are you aware of any similar legislation in any other states?

**Dan Zielinski:**

California enacted a check and inflate program two years ago. We supported that effort as well. California did settle under a much broader environmental measure addressing climate change, and by that authority, the California Air Resources Board enacted regulation. They have promulgated that rule, and it is in effect today.

**Chair Dondero Loop:**

Are there any more questions from the Committee? [There were none.] Is anyone else in support? [There was no one.] Is anyone in opposition?

**Sean T. Higgins, representing Terrible Herbst Incorporated:**

I am here in opposition of this bill. I commend the Senator's good intentions, but I think the bill is flawed. What you are doing with this bill is putting responsibility on garages, emissions stations, and lube shops to check tires and inflate them. That is putting liability squarely on the garage. If there is a future problem, the liability squarely lies with the garage. I testified before the Senate Committee on Transportation and told them shops check tire pressure as a courtesy and tell people when their pressure is low. We are not required to do it; we do it as a courtesy. Senator Schneider said that the large oil companies are lacking customer service. Come into a Terrible Herbst; customer service is still there. We do not believe this is something that should be relegated to the emissions stations or the lube stations.

We run into issues like nitrogen in tires. We do not have any mechanism to check nitrogen. I have nitrogen in my tires. What does a garage do in that instance? I think while the Senator tried to address some of the questions, he did not really get to the meat of it. The fact of the matter is there are situations that will arise where this law says you must inflate the tire to the proper pressure, and if you do not, you are in violation of the law and guilty of a misdemeanor. I think at some point we have to take a step back and say this is a personal responsibility that should not be put onto corporations.

**Wayne A. Frediani, Executive Director, Nevada Franchised Auto Dealers Association:**

On behalf of franchised new car and truck dealers of Nevada, I am testifying in opposition to S.B. 144. Although the bill may be well intended in potentially assisting with fuel economy, it will cause unforeseen problems for vehicle dealers and automotive garages in the state. [Continued to read from [\(Exhibit P\)](#).]

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**Assemblyman Carrillo:**

You stated that the vehicle you operate personally has nitrogen in its tires, correct?

**Sean T. Higgins:**

That is correct.

**Assemblyman Carrillo:**

I know all car tires that are ran on NASCAR tracks have to have nitrogen because when they get heated up, they do not expand. There is not a potential for explosions of tires and blowouts. I am not sure where you take your car to get the oil changed, but if I went to Jiffy Lube and I knew I had nitrogen in my tires, the first time someone checked the pressure it would let nitrogen out. You cannot just put air from the hose into the tire. Nitrogen is a gas that does not have any pressure changes no matter what the temperature is. If the cold temperature is 35 psi, it does not matter if it is 120 degrees or 20 degrees; it is still going to be 35 psi, correct?

**Sean T. Higgins:**

That is correct. That is the reason for using nitrogen in tires.

**Assemblyman Sherwood:**

You have raised concerns about the liability issue. Section 3 says, "Any person who violates any of the provisions of NRS 487.530 to 487.690, inclusive, except section 1 of this act, is guilty of a misdemeanor." Let us assume we pass the bill, and it becomes law, and someone goes to jail for up to six months. Would that be the manager of the shop? Who would be sent to jail?

**Sean T. Higgins:**

Good question, I do not know. That was a question I had myself. Would it be the technician or the owner of the shop?

**Senator Schneider:**

Section 3 says, "Any person who violates any of the provisions of NRS 487.530 to 487.690, inclusive, except section 1 of this act, is guilty of a misdemeanor." So, if you look at section 1, the people who perform the service are eliminated. They do not even commit a misdemeanor; we are just asking them to check the tires. Mr. Frediani is worried about his auto agencies, but when I take my car in, they give me a free car wash, free cappuccino, free muffins, free donuts, free apples, and they have a shoeshine guy who will shine my shoes. So, I do not know how this is costing him so much money to go around with a gauge and check the tire pressure and it is going to put him out of business. They give me \$25 worth of free service. This is not costing him any money. They think they are going to be sued.

Mr. Zielinski would like to answer the question about the lawsuits happening in California. I will speak for him. Since the California law was enacted, there have been zero problems with the tire industry and people being sued.

**Assemblyman Sherwood:**

Section 1 is exempt, but section 2 is not?

**Senator Schneider:**

Right, section 2 starts on line 9.

**Assemblyman Sherwood:**

Is there any criminal liability?

**Senator Schneider:**

They are exempt from a misdemeanor.

**Assemblyman Sherwood:**

It relates to something entirely different?

**Senator Schneider:**

Yes.

**Assemblyman Carrillo:**

You made a point about checking tire pressure; how do we know the gauges are correct? How do we verify the amount of air that is put in the tire? Let us say that someone takes his car to one shop and it says 35 psi and another shop says 32 psi. It is just for them to check the pressure, right? As long as he checks it, he is fine, correct?

**Senator Schneider:**

Yes. It is possible someone can have a faulty gauge; I do not know.

**Assemblyman Carrillo:**

It happens.

**Senator Schneider:**

Most people check the pressure and write it down. Good businesspeople put it in writing. They write down the date, time, temperature, and what they did to the car. If your tire blows after that, it is written and there should not be a lawsuit.

**Assemblyman Carrillo:**

My concern is that there are so many variables when it comes to air pressure in tires. There are so many variables when guys are actually checking the tire pressure. They can pretend they are checking it by bending down by your tire. How would anybody know that they are actually checking the tire pressure? I can write down a number on a piece of paper.

**Senator Schneider:**

When I take my car in for an oil change, they take my car in the back and change the oil; then they bring it back to me. They tell me what they did.

**Assemblyman Carrillo:**

Nobody ever checks.

**Senator Schneider:**

How do I know that they actually did what they tell me they did?

**Assemblywoman Benitez-Thompson:**

Have there been a multiple number of lawsuits filed in other states that have this law? Is it something that we think could happen, or do we know that it has happened?

**Senator Schneider:**

Mr. Zielinski said that there has been no explosion of lawsuits in California.

**Sean T. Higgins:**

Terrible Herbst has been sued on this issue in the past. People have had accidents caused by tire blowouts. We have been sued in the past and that is without having a requirement or law requiring us to check the tire pressure. We have had the lawsuits already. I think this bill would expand on them because now you are putting an affirmative obligation upon the owner and operators of the shop. Yes, we have had experience with that in my 20 years at Terrible Herbst.

**Senator Schneider:**

Have they ever lost a lawsuit?

[Chair Dondero Loop requested Mr. Higgins not to respond.]

**Assemblywoman Diaz:**

This bill came forth from an interim committee, correct?

**Senator Schneider:**

Yes.

**Assemblywoman Diaz:**

Section 2, subsection 1(e) says, "A violation of any regulation adopted by the Department governing the operation of a garage." Did adopting a regulation versus putting it in statute ever come up in any of the discussions?

**Senator Schneider:**

We wanted to put this in statute. We thought it was appropriate. We might be able to put it in regulation, but we probably would have to pass a law to tell them to put it in regulation. Our goal is to reduce oil consumption.

**Assemblywoman Diaz:**

I understand, but regulations came to the forefront when Mr. Zielinski came forward and said it was a regulation in California.

**Senator Schneider:**

It was done in California, yes. I think they did that because of their air quality. They are tough on air quality. They did it right under their environmental department.

**Assemblyman Sherwood:**

You said something I absolutely believe in; you said good businesses will check tire pressure as a courtesy. I have been looking on the Internet, and I have seen a couple of businesses offer this as a courtesy. I think you are right. I think good businesses do this and they do it as a remedy. I wonder if the market will take care of this and I can save \$9 a month because the market said they would make sure my tires are inflated correctly. We are going to go to those providers so we do not have to go the expensive way by regulating this and having three people going around trying to trick people. I think the market works. What do you think?

**Senator Schneider:**

Not all of the market works. There is not a fiscal note on this. We already do the checking. The State of Nevada checks the different auto repair shops. It used to be where you would go into a service station and they would wash the windows, check the oil, et cetera. They would do all of it for free and then corporations took over and they controlled the gas stations and eliminated all of that to put more money to the bottom line. The world changed; they are more interested in selling big cups of coffee and cigarettes as opposed to giving service, and their profits soared. The market did change, and now government has to do things to make the market change in another direction.

There are some good businesses. The better businesses already do this as a courtesy, but there are a lot of businesses that do not. In my area of town in Clark County there are a lot of auto and tire places that do not check the tire pressure. There are a few oil changing places that do not do this on a regular basis, but I think they should. My wife's car tells you what the tire pressure is. This is a bill that 20 years from now you can eliminate from the statutes because all cars will tell you how much air is in the tires. I will put a sunset date on this of 2035.

**Assemblyman Carrillo:**

You talked about under inflation, but you did not mention over inflation.

**Dan Zielinski:**

Under inflation in all circumstances is a bad thing for tires. When they are underinflated, they build up heat, and over time the heat can cause the internal components of the tire to wear and fail. The most common consequence of over inflation is the tire starts to wear out in the center of the tread on the outside of the tire. Under inflation causes the tire to wear out on outer shoulders. Severe under inflation can also affect the handling of the vehicle, which can be a problem. It also makes the tire more susceptible to road hazard damage.

**Assemblyman Carrillo:**

Regarding your amendment ([Exhibit N](#)) about the vehicle manufacturer's air pressure instead of the tire manufacturer's air pressure, in Nevada there are a lot of people with 24-inch dub rims, and I am sure they do not have anything close to the psi that would be considered by a vehicle manufacturer. How would this amendment affect after-market wheels?

**Dan Zielinski:**

That is certainly an issue for an enthusiastic segment of car owners who like to alter their vehicles significantly. In doing so, people take the risk that these are combinations that are not recommended by the vehicle manufacturer. Oftentimes to figure out the correct pressure, it involves looking at a tire rim association or a tire load inflation table to determine the appropriate psi for that vehicle-tire combination. It is not an easy issue; it is something that we sometimes get questions about from car dealers and others who have customers who are very interested in significantly upsizing their tires. We issue some guidance to our members about plus-sizing tires, but it is not to the severe situations you indicate.

**Assemblyman Carrillo:**

You mention the after market and it is a big deal; if you have ever been to the Specialty Equipment Market Association (SEMA) show, you would understand.

**Dan Zielinski:**

I have been to the SEMA show; the big tires are big stars.

**Assemblyman Carrillo:**

Could you reiterate something to the effect of nitrogen in the tires? We know it is an inert gas.

**Dan Zielinski:**

We have a tire industry service bulletin on nitrogen inflation. Nitrogen is a safe inflation gas to use in your tires because it is compressed air. We note that it is used in racing situations, aircraft tires, and even space shuttles. It is not a necessary inflation solution for consumers. The additional benefits that nitrogen might bring in ordinary driving use are marginal at best. You are right; if someone has nitrogen in his tires and wants to preserve as much of the purity of the nitrogen as possible, you are going to lower the purity once you introduce compressed air. Over time, the nitrogen will ultimately migrate through the tire and reach a relative parity with the ambient air outside, which is already 78 percent nitrogen.

**Assemblyman Carrillo:**

I wanted the rest of the Committee to hear that. Thank you.

**Dan Zielinski:**

The age of the tire will not affect the recommended inflation pressure. If your vehicle recommends a pressure of 35 psi, you should inflate the tire to that pressure. If the tire is getting worn and it seems to be hazardous, the obvious solution is to remove the tire. You should never underinflate the tire. Having the tire inflated to its proper pressure does not impose a high risk of the tire failing or suffering a blowout. I would suggest that under inflating a tire would make a blowout a higher risk.

**Assemblyman Brooks:**

Can you address the defective tire I talked about earlier with the bubble?

**Dan Zielinski:**

The bubble is a danger sign for a tire. The tire would need to be removed. That bubble will pop. It is not just a function of air popping out. It is more likely some of the steel belts in the tire have broken, and they are causing the tire to jut out. The things that keep the tire together when it is spinning, the internal components, are defective. When it is spinning, it generates a lot of force that is moving outward, and ultimately as the tire is rotating, it is going to come apart if the bubble exists.

**Assemblyman Brooks:**

Is it hazardous to fill the tire up with the bubble if it is below the recommended psi?

**Dan Zielinski:**

A similar issue came up in California with their regulation that had to do with a service provider facing a situation where it felt the tire was unsafe. It recommended replacement, but the consumer did not want to do that. Our recommendation was that, at the very least, the tire should be brought to its proper pressure. Not being properly inflated is a risk factor also. It should also be documented that the consumer refused service. Within our two retail outlets, which are Bridgestone and Goodyear, their practice is to document customer refusal to service that they recommend.

**Assemblyman Brooks:**

If I have a bubble in my tire and it is at 30 psi and it should be at 35 psi, could it be detrimental to fill the tire up to 35 psi?



**Dan Zielinski:**

No, it would not be detrimental to inflate it to the recommended psi. It could be detrimental to operate the tire on the road, but it would not be detrimental to simply inflate the tire to its proper pressure.

**Chair Dondero Loop:**

Thank you. Are there additional questions from the Committee? [There were none.] Is there anyone else who opposes the bill?

**Rob Melvin, representing United Nissan Las Vegas:**

When Wayne Frediani brought this to our attention, it raised a lot of concerns as a businessman, but I also find myself in a unique position because my training is as a trial lawyer. I am going to talk about the liability part; then I will talk about the economic impact. One of the biggest issues that I have is a concept called "net opinions." That is where someone states an opinion without factual data to back it up.

I have brought with me a Nissan Owners Manual. On page 835, it tells us and the owners of the cars how to check the tire pressure. It states, "The tire pressure should be checked when the tires are cold. The tires are considered cold after the vehicle has been parked for three or more hours or driven less than one mile at moderate speeds." A big part of our business when we are doing maintenance is quick lube. No one wants to spend three hours at a repair station to get an oil change. In order for us to properly check the air pressure, the car must sit at our dealership for a minimum of three hours until the tires cool down. It is easy to say we should use common sense, but the lawyer in me looks at the proposed language, and it does not say there is a common sense requirement in here. It says I have to check the psi, and I have to bring it up to the vehicle manufacturer's specifications. It would be pure speculation on our part unless we are allowed to keep every car there for a minimum of three hours per Nissan specifications, so I can give an accurate measurement to the customer. I would be doing an injustice to the customer if I was just guessing what the tire pressure may be.

What happens in the situation where I tell the customer I am required by law to check and fill his tire pressure, so he has to wait here for three hours and he says no. I know Senator Schneider said common sense dictates, but the statute does not say that. The lawyer in me knows a lot of trial attorneys and personal injury attorneys that will hang their hat on that, and they will come after us. Senator Schneider said not to think we will be liable. I know a great way we can amend the bill to make sure I am not liable: give me statutory immunity. I will be more than happy to check tire pressure if I know for a fact

I do not have liability from some trial lawyer's perspective down the road. I am sure this will get addressed in more detail.

I did some math before I got here. In 2010 at our dealership, we had 23,698 automobile repair orders that went through our shop. They were customer paid and warranty repair orders. Under the statute, that means I would have had to check the air pressure in almost 24,000 vehicles. It might not sound like a lot of time, but I have to pay my technicians for everything they do. The way a technician gets paid is not by the hour; he gets paid by the task. I did some checking with Nissan, and they have checking and filling air pressure on four tires at 0.2 hours, which is 12 minutes. If I take those 24,000 cars and calculate the 12 minutes, it comes out to 4,739.6 hours a year that my technicians are spending checking air pressure. When I look at the average wage per hour of my technicians at \$25 an hour, the cost to my dealership is \$118,490 a year. I have to remind everyone that the car industry, especially new automobile dealerships, has not been the best industry to be in over the last few years. I will not publically disclose my financial statements, but a few years back they were not that pretty. Although \$118,000 might not sound like a lot to some people, it means a lot to me. It translates into a couple positions that will have to be eliminated if this additional expense and burden is put on us.

We do offer checking and filling tire pressure as a courtesy. I am not saying we do not do this service; we offer it as a courtesy because it is good for customer satisfaction. At the same time, we tell customers when they come in for a warranty repair, it is good to change their oil, or their gas mileage will improve if they get a tune up. This is not a repair facility issue. If we want to make sure across the board that every car on the road has proper inflation of its tires, we can make it an equipment violation under *Nevada Revised Statutes* (NRS), and we have an enforcement mechanism built in; the Nevada Highway Patrol or any other police agency can pull people over for an equipment violation. There is a way for people to police it, and there is a way for the state to make sure they police it. I was more concerned with the economic impact personally.

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**John N. McCandless, President, McCandless International Trucks:**

I am assuming the word "vehicle" covers trucks. I have some different problems, but most of what I would have covered has been brought up, so I am not going to repeat it. This is not a good bill. Tire pressure information on the vehicle may not be correct due to tire size changes. Heavy duty trucks do not have a set tire pressure on the vehicle. Tires may be nitrogen filled, and most

garages do not have the equipment to refill nitrogen. Many garages do not have adequate air dryers and fill tires with liquid water and water vapor in error. Heavy duty truck shops have to service trucks with up to 20 tires, and they are dual wheels, and it is difficult sometimes to get the air filler equipment on the valve stem; it may take two hours, and our charge is \$105 per hour. We do short-time repairs that take only 30 minutes, yet it may take 2 hours to fill the tires. We charge \$79 for a Nevada Department of Transportation vehicle inspection, which is required every year. We charge more if trailers are involved. It takes quite a bit of time to complete a safety inspection. The truckers will change their tire pressures according to their loads. If they have heavy loads, they put more air in the tires; if they have light loads—they do not want a rough ride—they put less air in the tires. We do not need the responsibility to match their needs. I think this bill will add to legal exposure for dealers and garages.

**Chair Dondero Loop:**

Thank you. Are there any questions?

**Assemblyman Carrillo:**

Some tires are driven at a very low pressure. You mentioned that the customers like to customize their ride on the tire pressure. What would you say on the economics side of it? We are trying to save oil. Some people favor the aspects of having a comfortable ride over if they are going to lose half a mile per gallon of gas. How much of a difference are we looking at? I know it depends on how much they are pulling too—if it is an 80,000-pound load versus a 60,000- or 20,000-pound load. Can you elaborate?

**John N. McCandless:**

The average tires will go up to about 110 psi. Sometimes the drivers lower the pressure to 85 psi. They are still inflated to their capability. I cannot comment on whether or not they lose mileage, but all operators now are concerned about mileage, and we have to sell trucks that weigh as little as possible. We have to show them how to progressive shift in order to keep the engine at the most economical speeds, so we are concerned with mileage and fuel economy.

**Assemblyman Carrillo:**

I had the pressure backwards. I was under the assumption that the trucks had low pressure in the tires.

**Chair Dondero Loop:**

Are there additional questions from the Committee? [There were none.] Is there any more opposition?

**Peter Krueger, representing Nevada Petroleum Marketers and Convenience Store Association:**

This is an important bill. A subset of the company I represent is the emission testers, the people who run the smog stations. This bill addresses Chapter 487 of the NRS. Smog stations are addressed and governed by Chapter 445B in the NRS. I queried the people at the DMV; in no way does this bill bring smog stations into the mix, which is an important point—listening to the sponsor of the bill—to achieve his intention of reducing the demand for foreign oil. The price of gasoline is doing more now to reduce the demand for foreign oil than this bill will do.

I think it is quite apparent that the people who need this service generally are people who will not or are unable—due to economic conditions—to avail themselves of periodic service. Therefore, the people we really need to address with this bill are not going to be in for periodic maintenance.

Major oil companies and somehow the petroleum industry are morphed into a giant corporation situation, and no one cares about the consumer. I will assure this Committee that the vast majority of retail service stations and wholesale service stations are not owned by major oil companies at all. They are owned by family businesses—the people I represent—that look every day at consumer service. It was testified by the sponsor of the bill that people come into these facilities, and a good operator will check your tire pressure for you. I went to a Jiffy Lube yesterday for a need of my personal vehicle, and they did all of this for me without a law or any demand by this government. The men and women in the petroleum industry and in the Jiffy Lube business are already doing this service. Sure there are a few that do not, but to pass a law that mandates these kinds of services with sanctions does not make any sense.

We are opposed to the bill. We do not think it will achieve what the sponsor of the bill has intended. High oil prices are doing a far better job driving demand for petroleum products down and hopefully increasing the sale of more fuel-efficient vehicles in the future. We are absolutely opposed and think there are plenty of reasons why this bill should not go forward.

**Chair Dondero Loop:**

Thank you. Are there any questions from the Committee?

**Assemblyman Carrillo:**

I do not know if I have ever had any reason to think that smog testers should be touching my tires. I have a problem with them putting something in my tail pipe. Do you think that is something they should be doing?

**Peter Krueger:**

This was not my idea; the sponsor of the bill testified several times today that smog stations were part of this bill. I contend, and the DMV backs me up, that the smog testers are not part of this bill. Many smog stations are not equipped with pressure equipment and the knowledge to even perform this service.

**Chair Dondero Loop:**

Are there additional questions? [There were none.] Is there anyone else in opposition? [There was no one.] Is anyone neutral? [There was no one.] I will close the hearing on S.B. 144. Is there any public comment? [There was none.] Are there any comments from the Committee? [There were none.] We are adjourned [at 6:51 p.m.].

RESPECTFULLY SUBMITTED:

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Jordan Neubauer  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn Dondero Loop, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Transportation

**Date:** May 12, 2011

**Time of Meeting:** 3:23 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 51 (R1)	C	Jennifer Ruedy	Work Session Document
S.B. 140 (R1)	D	Senator Breeden	Written Testimony
S.B. 140 (R1)	E	Senator Breeden	Conceptual Amendment
S.B. 140 (R1)	F	Traci Pearl	PowerPoint
S.B. 140 (R1)	G	Brian LaVoie	Written Testimony
S.B. 140 (R1)	H	Tim O'Shea	Written Testimony and Letters
S.B. 140 (R1)	I	Tim O'Shea	Picture of an Amateur Radio
S.B. 140 (R1)	J	Sandy Watkins	Written Testimony
S.B. 140 (R1)	K	Sandy Watkins	Pictures of Car Accident
S.B. 140 (R1)	L	Chad Dornsife	Written Testimony
S.B. 140 (R1)	M	Chuck Reider	Written Testimony
S.B. 144	N	Dan Zielinski	Amendment
S.B. 144	O	Dan Zielinski	Written Testimony
S.B. 144	P	Wayne Frediani	Written Testimony