

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

**Seventy-Sixth Session  
April 14, 2011**

The Committee on Transportation was called to order by Chair Marilyn Dondero Loop at 3:33 p.m. on Thursday, April 14, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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

**GUEST LEGISLATORS PRESENT:**

Assemblyman Pat Hickey, Washoe County Assembly District No. 25

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Bernard F. Carter, Private Citizen, Reno, Nevada  
Mark Froese, Administrator, Management Services and Programs Division,  
Department of Motor Vehicles  
Brian O'Callaghan, Government Liaison, Office of Intergovernmental  
Services, Metropolitan Police Department, City of Las Vegas

**Chair Dondero Loop:**

[Roll was called. Rules and protocol were stated.] I will 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 document, and we will start with Assembly Bill 277.

**Assembly Bill 277:** Provides for the creation of alternative special license plates honoring service of female veterans. (BDR 43-810)

**Jennifer Ruedy, Committee Policy Analyst:**

Assembly Bill 277 was heard April 12, 2011. It provides for the creation of alternative special license plates honoring service of female veterans. There was an amendment provided by the bill sponsor at the Committee hearing. The amendment is attached and titled "Proposed Amendment 6087 to Assembly Bill No. 277." [Continued to read from [Exhibit C](#).]

**Chair Dondero Loop:**

I would like to entertain a motion.

ASSEMBLYMAN KIRNER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 277.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

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

I will assign the floor statement to Mr. Anderson. Ms. Ruedy, please take us through Assembly Bill 374.

**Assembly Bill 374:** Directs the Department of Administration and the Department of Transportation to conduct a joint review of the mobile equipment owned by the Department of Transportation. (BDR S-852)

**Jennifer Ruedy, Committee Policy Analyst:**

Assembly Bill 374 was heard on March 31, 2011. It directs the Department of Administration and the Department of Transportation to conduct a joint review of all mobile equipment currently owned by the Nevada Department of Transportation. However, there was a substantial amendment presented by the sponsor of the bill at the Committee hearing. [Continued to read from [Exhibit D](#).]

**Chair Dondero Loop:**

I would like to entertain a motion.

ASSEMBLYMAN BROOKS MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 374.

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

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

I will assign the floor statement to Ms. Woodbury. Ms. Ruedy, please take us through Assembly Bill 384.

**Assembly Bill 384:** Repeals provisions governing certain duties of engineers who drive locomotives. (BDR 58-978)

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from [Exhibit E](#).] Assembly Bill 384 repeals state law that requires an engineer who drives a locomotive to ring the bell or sound the whistle at least 80 rods from any place where such railway crosses a traveled road or street. This bill was heard on March 29, 2011. The bill sponsor and Mr. Carter are here if there are any questions.

**Chair Dondero Loop:**

I would like to entertain a motion.

**Assemblyman Kirner:**

I am lead to believe that the Brotherhood of Locomotive Engineers and Trainmen have changed their opposition, and seeing that there is no other opposition, I would like to make a motion.

ASSEMBLYMAN KIRNER MOVED TO DO PASS  
ASSEMBLY BILL 384.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

[This motion was rescinded later in the meeting, and a new motion was passed.]

**Chair Dondero Loop:**

Is there any discussion?

**Assemblywoman Benitez-Thompson:**

I appreciate the discussion offline from the bill sponsor. There was one piece I was missing in the testimony, and we did get clarification on it. I want it on the record. With the passing of this law, under the federal law the trains will still be required to blow their horns until such a time that either the City of Reno or Washoe County put the appropriate safety measures in place that are required by the federal government. I just wanted to clarify that the horns are still going to be blown. I think some of us were thinking that they would not be blown at all. Am I correct?

**Assemblyman Pat Hickey, Washoe County Assembly District No. 25:**

That is correct.

**Assemblyman Brooks:**

Are the quiet zones mostly located in rural areas, or will there be some in the inner-city, urban areas? Is this going to be one particular quiet zone? How will this affect the other areas in the state?

**Bernard F. Carter, Private Citizen, Reno, Nevada:**

My understanding is that it would apply to any quiet zone throughout the United States, wherever it is requested by a municipality, as long as it meets the *Code of Federal Regulations* (CFR). The specific CFR is 64 pages long. The study that was done by the City of Reno adjusted five specific codes in the western portion of Reno. It would be in that municipality, but the City of Elko, City of Winnemucca, or City of Lovelock could apply for it; they would just have to meet the same CFR.

**Assemblyman Brooks:**

So they would have to specifically request a quiet zone?

**Bernard F. Carter:**

Yes, they would have to specifically request it.

**Assemblyman Frierson:**

Currently it is my understanding that the conductors have to blow their horn. The only way they would not have to blow their horn is if a quiet zone was established. This bill would propose to reverse that and basically say that the local municipalities would have to designate where they have to blow their horn; otherwise, they just abide by the federal guidelines. Am I correct?

**Bernard F. Carter:**

No. The way that it works is the municipalities have to request a quiet zone and they have to meet the CFR in order to establish a quiet zone. *Code of Federal Regulations* Title 49, Section 222.21 says that they must continue blowing their horns until a quiet zone has been established and approved by both the municipality and the Federal Railroad Administration.

**Assemblyman Frierson:**

We discussed this, but I am confused as to why we cannot simply leave existing law in place and go through the process of establishing quiet zones, or is it your position that the statute does not allow for that?

**Bernard F. Carter:**

That is correct; the statute does not provide for that. The federal statute refers to state law unless the state law does not allow that to happen. Our state law does not allow that to happen. For example, the City of Reno could request a quiet zone and meet all the criteria, but the state law does not allow it at all. That is what we are trying to change.

**Assemblyman Brooks:**

In the quiet zone, they do not have to blow their horns, right?

**Bernard F. Carter:**

That is correct.

**Assemblyman Brooks:**

Who is responsible if someone gets killed?

**Bernard F. Carter:**

Who is responsible if someone is killed in a quiet zone?

**Assemblyman Brooks:**

Yes, in a quiet zone.

**Bernard F. Carter:**

The railroad is ultimately responsible; it has the liability. I am not an attorney, but my understanding is that the railroads control all of their tracks and are responsible for them.

**Assemblyman Brooks:**

So the taxpayers and the state would not be held liable?

**Bernard F. Carter:**

If the municipality puts in a quiet zone, that is part of the consideration. There are certain risk analyses they go through for it.

**Assemblyman Brooks:**

Is the City of Reno held liable in anyway?

**Bernard F. Carter:**

They could be held liable, but they could be held liable today if it happens within their jurisdiction.

**Assemblyman Frierson:**

I do not know that I am entirely wrapping my head around this. If the problem is within the state statute, if we do not have authority to establish a quiet zone, I do not understand why we would not amend the law to create the authority to establish a quiet zone rather than abolish the law. I am concerned because there was testimony at the hearing about a man in Chicago, Illinois who suffered the loss of a child. It happened to be in a location where a quiet zone was established. There is a concern that there could be more opportunity for an accident if a quiet zone is established. I do not understand why we cannot amend the statute to allow for the authority.

**Bernard F. Carter:**

The statute specifically states in 49 CFR § 222.21 "this section does not apply to any Chicago Region highway-rail grade crossing at which railroads were excused from sounding the locomotive horn by the Illinois Commerce Commission, and where railroads did not sound the horn, as of December 18, 2003." When they instituted the law and requirements, they exempted Chicago. Chicago was not a portion of the quiet zone regulation. I do not in any way demean or belittle this gentleman's loss. I cannot imagine the tragedy, but Chicago is exempt from quiet zones. The rigorous

requirements that the City of Reno would have to put in place are not required by the City of Chicago.

That is a good question as to why we would not just amend the law. There are so many provisions that address quiet zones that it seems to make sense to eliminate the law because the federal law oversees them with the exception of state law. In my opinion, it would make more sense to eliminate the law entirely and be controlled, as all the other states are, by federal regulations.

**Assemblywoman Neal:**

You are saying that in the absence of state law, the federal law would govern the situation. It would be like it was never created?

**Bernard F. Carter:**

Yes, that is my understanding.

**Assemblywoman Neal:**

I understand what you are saying.

**Assemblyman Brooks:**

This will elevate the penalty for the people who may live in Clark County or other counties. Right now, it is a misdemeanor if locomotive engineers do not sound their horn, but if we repeal this law, it could be detrimental because there will be no consequence if they do not sound their horn. There would be no law for them to follow anymore. It may help the rural areas, but in the urban areas, it could be detrimental. Is that correct?

**Bernard F. Carter:**

No, they would follow the federal law.

**Assemblyman Brooks:**

But the state law is the one that imposes the misdemeanor. What does the federal law impose?

**Bernard F. Carter:**

I do not have the breakdown for the specific punishment.

**Assemblyman Brooks:**

The state law is very short. *Nevada Revised Statutes* 705.430 says, "Every engineer driving a locomotive on any railway who shall fail to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded, at least 80 rods from any place where such railway crosses a traveled road or street, where such road or street is customarily used by the public for

the purpose of travel (except in cities where other regulations are required), or to continue the ringing of such bell or sounding of such whistle until such locomotive shall have crossed such road or street, shall be guilty of a misdemeanor." Federal law would not impose a sanction; it would just have regulations. Does the federal law have a sanction for those who do not follow the law?

**Bernard F. Carter:**

Yes, it does. I just cannot put my finger on it right now. There are specific requirements if they violate the law and what the penalty is.

**Assemblyman Hickey:**

One of the railroad conductors' representatives mentioned they would still be blowing the whistle. The removal of this law will not cease the current practices related to safety that they are following, and I assume that is because of federal regulations. They are required to follow the regulations. I would like to make the additional point that this is enabling legislation, and please note in the quiet zones there is a safety structure set up. It is not just the elimination of having to blow the whistle, but there are crossings with safety lights and mechanical operations that close automatically when trains pass in that particular area. It is not simply a quiet zone permission granted to not blow the whistles; there is a whole apparatus that is created once those are installed.

**Assemblywoman Benitez-Thompson:**

My question is more for the legal staff to see if we can satisfy some of the nervousness around this issue. Would we be able to do an amendment that would add at the end "except in places in which quiet zones are established according to federal law"?

**Darcy Johnson, Committee Counsel:**

I am sure we can figure out some way to insert language in the bill that makes an exception to the underlying "misdemeanor if you do not blow the horn, except in a quiet zone as designated under the federal regulations."

**Assemblywoman Benitez-Thompson:**

Would that still accomplish what you are seeking to do?

**Bernard F. Carter:**

As long as it is enabling quiet zones to be established, that would be fine. I might also mention to Assemblyman Brooks that there are specific penalties for violation in the federal regulations. *Code of Federal Regulations* Title 49, Section 222.11 says, "subject to a civil penalty of least \$650 and not more than \$25,000 per violation, except that: Penalties may be assessed against



individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$100,000 per violation may be assessed." There are guidelines and penalties in the CFR.

**Assemblyman Brooks:**

That is a civil penalty and it would strengthen the criminal penalty, but is there a criminal penalty in the federal law? We have a criminal sanction here in Nevada, which could keep them from working again if they were to break it. That is just a civil penalty, which you can do at the state level as well.

**Bernard F. Carter:**

I do not see anything in the statute.

**Chair Dondero Loop:**

Mr. Kirner, I think we need you to rescind your motion and make a new one since Mrs. Benitez-Thompson wants to add an amendment, and it was accepted by the sponsor.

**Assemblyman Kirner:**

I was not clear that we needed to have the amendment, but I have no objection if you think it would add to it.

**Assemblyman Hickey:**

We have no objection to the amendment if that is the pleasure of the Committee.

**Assemblyman Kirner:**

I will rescind my previous motion.

**Chair Dondero Loop:**

I will entertain a new motion.

ASSEMBLYMAN KIRNER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 384 WITH THE AMENDMENT BEING THAT IT  
WOULD BE A MISDEMEANOR IF YOU DO NOT BLOW THE HORN,  
EXCEPT IN A QUIET ZONE AS DESIGNATED UNDER THE FEDERAL  
REGULATIONS.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CARRILLO VOTED NO.  
ASSEMBLYMAN ATKINSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Mr. Hickey and allow him to work on the amendment. Ms. Ruedy, will you please take us through Assembly Bill 508.

**Assembly Bill 508**: Revises provisions governing mopeds. (BDR 43-845)

**Jennifer Ruedy, Committee Policy Analyst:**

Assembly Bill 508 was heard April 7, 2011. It revises provisions governing mopeds. It requires that every moped be registered with the Department of Motor Vehicles (DMV). Upon such registration, the DMV is required to issue a license plate for the moped. [Continued to read from [Exhibit F](#).]

**Darcy Johnson, Committee Counsel:**

I am not clear on the effective date the DMV wants. Is it January 1, 2012 or July 1, 2012?

**Mark Froese, Administrator, Management Services and Programs Division,  
Department of Motor Vehicles:**

The date we would like to request is July 1, 2012, and that would result in the removing of the programming.

**Darcy Johnson:**

Just to be clear, we are not doing the passage and approval for the purpose of regulations. It is just a straight July 1, 2012 effective date? [Mark Froese nodded his head yes.] Thank you.

**Chair Dondero Loop:**

Thank you. Mr. O'Callaghan, what is the status of the second amendment?

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,  
Metropolitan Police Department, City of Las Vegas:**

After review, the amendment looks innocuous, but there is a little more detail. Trimobile is not clearly defined. A sidecar can be a trimobile. That would mean for a motorcycle with a sidecar, the operator and the passenger would not have to wear a helmet. I would prefer it to be its own bill. I would like to withdraw the second amendment.

**Chair Dondero Loop:**

I would like to entertain a motion.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 508 WITH THE AMENDMENT FROM THE  
DEPARTMENT OF MOTOR VEHICLES TO CHANGE THE EFFECTIVE  
DATE TO JULY 1, 2012.

ASSEMBLYMAN BROOKS SECONDED THE MOTION.

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

**Assemblyman Sherwood:**

I just want to thank Matt Boyle, who is a constituent of mine. He is not terribly involved in the political process, but good for him for getting involved, and hopefully next session we can clarify the sidecar and everything else. Thank you, Mr. O'Callaghan, for the legwork on seeing the technicalities. I appreciate it.

**Chair Dondero Loop:**

I will assign the floor statement to Ms. Neal. Ms. Ruedy, will you please take us through Assembly Bill 511.

**Assembly Bill 511:** Revises certain provisions governing transportation.  
(BDR 43-1109)

**Jennifer Ruedy, Committee Policy Analyst:**

Assembly Bill 511 was heard on April 7, 2011. It revises certain provisions governing transportation. Assembly Bill 511 defines the term "qualified plug-in electric drive vehicle" in a manner substantially similar to the definition used by the Internal Revenue Service for the purpose of the tax credit made available for the initial acquisition of such vehicles. Upon the application of the owner or long-term lessee of a qualified electric drive vehicle, the Department of Motor Vehicles (DMV) is required to issue to the applicant a distinctive decal, label, or other identifier that clearly distinguishes the qualified electric vehicle from other vehicles. The DMV is authorized to charge a fee for the distinctive decal, label or other identifier that is sufficient to cover the costs of its issuance. [Exhibit G](#) has two mistakes. In the first paragraph it states Nevada Department of Transportation two times; both times it should read the Department of Motor Vehicles. [Continued to read from [Exhibit G](#).]

That was Assembly Bill 511 as introduced. It is kind of two separate ideas put into the same bill. There were two separate amendments that should be attached. [Continued to read from [Exhibit G](#).]

**Chair Dondero Loop:**

I would like to entertain a motion.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 511 WITH BOTH AMENDMENTS.

ASSEMBLYMAN HAMMOND SECONDED THE MOTION.

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

**Chair Dondero Loop:**

I will assign the floor statement to Mr. Hammond. That finishes our work session. Is there any public comment? [There was none.] Are there any comments from the Committee? [There were none.] We are adjourned [at 4:11 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:** April 14, 2011

**Time of Meeting:** 3:33 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 277	C	Jennifer Ruedy	Work Session Document
A.B. 374	D	Jennifer Ruedy	Work Session Document
A.B. 384	E	Jennifer Ruedy	Work Session Document
A.B. 508	F	Jennifer Ruedy	Work Session Document
A.B. 511	G	Jennifer Ruedy	Work Session Document