

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-sixth Session
March 9, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:20 p.m. on Wednesday, March 9, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Shirley A. Breeden, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Joseph (Joe) Hardy, Clark County Senatorial District No. 12
Assemblyman Lynn D. Stewart, Assembly District No. 22

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

James T. Overland, Sr., D.C., M.S., Nevada Chiropractic Association
Paul Jackson, Legislative Chair, Chiropractic Physicians' Board of Nevada
Benjamin S. Lurie, D.C., The Neck and Back Clinics
Ken Hogan, D.C., Hogan Chiropractic Wellness Center
Marsha Berkbigler, Chiropractic Physicians' Board of Nevada

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Derek Day, D.C., Anthem and Mobile Chiropractic
Caleb Cage, Executive Director, Office of Veterans' Services
Robert L. Compan, Farmers Insurance Group
Marlene Lockard, Nevada Collision Industry Association
Michael Geeser, AAA Nevada
Jeanette Belz, Property Casualty Insurers Association
Paul Enos, Nevada Motor Transport Association; Nevada Towcar Council
Norman Chamberlin, Valley Towing
Dennis Milk, Tow Guys
Jason Kent, Quality Towing
Helen Foley, National Association of Professional Employer Organizations
Donald E. Jayne, Administrator, Division of Industrial Relations, Department of
Business and Industry
Amber Joiner
CHAIR SCHNEIDER:
I will open the hearing on Senate Bill (S.B.) 215.

[SENATE BILL 215](#): Makes various changes concerning chiropractors' assistants.
(BDR 54-834)

SENATOR JOSEPH (JOE) HARDY (Clark County Senatorial District No.12):
This bill allows chiropractors' assistants (CA) to continue their medical education. In the bill, we refer to "live" education versus "online" education. Both types of continuing education (CE) are available, and we want them accessible to the CAs.

JAMES T. OVERLAND, SR., D.C., M.S. (Nevada Chiropractic Association):
Nevada is one of nine states requiring CAs to be certified by our Chiropractic Physicians' Board of Nevada (CPBN). Other states using uncertified CAs are experiencing difficulties with insurance companies for therapy reimbursements. I have submitted written testimony ([Exhibit C](#)).

PAUL JACKSON (Legislative Chair, Chiropractic Physicians' Board of Nevada):
We are neutral on this bill. We have not voted on it yet as a board.

SENATOR ROBERSON:
I have heard from some CAs who are concerned about how and where they can obtain their CE credits. Can the bill be amended to include online credits?

SENATOR HARDY:

We are aware of those concerns. The online option is something we should offer. Since chiropractic treatments are hands-on, live education has a definite advantage. We would like to do a combination of live and online education.

SENATOR ROBERSON:

I received letters from working CAs who tell me the options for live CE are limited. They also say the CE requirement would be financially burdensome.

DR. OVERLAND:

Seven states have certified programs for CAs, and only half of them have CE requirements. Since this idea is in its infancy, not a lot of seminars or online instruction opportunities are available. Some chiropractic colleges have CE programs, but they would have to be approved by the State. For online instruction, the CPBN would have to get the curriculum of the online class, review it and approve it. This would cost time and money, and we would not get any revenue from online CE programs. Most CAs perform hands-on procedures including conducting examinations, taking X rays, administering physical therapy and performing exercises. Online education would not give that valuable instruction to the CAs. We prefer live instruction requirements, but we do understand the need for some online training for convenience.

SENATOR ROBERSON:

Could you specify what options there are for classes in the State? What do they cost?

DR. OVERLAND:

We are addressing this issue. At our 2010 Nevada Chiropractic Association (NCA) convention, we offered four hours of CE for the CAs in attendance. If they were NCA members, the instruction was free; if not, it cost \$4 per credit hour. Within NCA, we recently formed a CA association with an advisor and president. Our goal is to further the CE options for our CAs. We are developing criteria and curriculum for the CAs.

SENATOR ROBERSON:

I am not opposed to this bill, but before we require people to get CE credits to continue what they have been doing, we need to make sure classes are available. We have enough unemployed people and do not want to create a

situation where these CAs cannot work in their profession because of this new requirement.

DR. OVERLAND:

We do have seminars planned for this year, including some at our upcoming 2011 NCA convention. We are attempting to make more classes available throughout the State.

SENATOR HARDY:

I see this in my profession of family practice. We have to do continuing medical education credits from different sources. They can be online, live seminars or self-directed study. When I teach physician's assistants, that qualifies as self-directed credits. Other states have reciprocity, so one state can have an agreement with another state and might be able to reciprocate the CE material. We could do this as well. We should all be up-to-date on our Cardiopulmonary Resuscitation certifications, for example, and could count that toward a CA's CE credits.

SENATOR SETTELMAYER:

Is there a specific job definition of what a CA does? Someone who works the front office and only does the billing should not have the CE requirement.

DR. OVERLAND:

The two facets of CA duties include the front office and the back office, which is the clinical work. The CPBN does not differentiate between the two.

SENATOR SETTELMAYER:

My chiropractor uses some retirees in his office. Will they need to have CE in this field?

DR. OVERLAND:

Only if they are certified CAs. Individuals who work in a chiropractic office who are not certified as CAs would not be required to obtain the CE credits.

SENATOR SETTELMAYER:

I just got more than two million hits on Google for chiropractic CE opportunities, so there seems to be plenty of resources out there. Would your board be the one evaluating whether any of these were acceptable for Nevada CA credits?

DR. OVERLAND:

The certification would come from CPBN.

BENJAMIN S. LURIE, D.C. (The Neck and Back Clinics):

As a Nevada business owner, I am concerned about having CE hours added to my CA's schedule. The average CA in Las Vegas earns from minimum wage up to \$15 per hour. The financial burden of these classes would likely come back to the chiropractor. Since we are one of the states requiring CAs be licensed, we would have to do this. We would not want to lose these employees. My CAs say that 12 hours of CE is a lot, considering the restricted number of available courses. We are concerned that this is putting the cart before the horse, to require CE credits before the classes are readily available. Currently, chiropractic doctors can do all or most of their CE online. I fear that CAs in rural communities would be unable to make the seminars in person, so their CE would need to take the courses online. My employees are also concerned about the cost and extra stress of obtaining these CE credits.

KEN HOGAN, D.C. (Hogan Chiropractic Wellness Center):

I support S.B. 215 in general but have a few suggestions. The 12-hour requirement seems excessive, especially with the lack of classes. I like the idea of half the CE credits being earned at live seminars with hands-on application and half being earned online. It seems odd that chiropractors can have all their hours online and CAs cannot. If you do your CE now, the classes cost around \$20 per hour. I do like the idea of CE in general, but the financial and time burdens, coupled with the lack of available classes, concern me.

CHAIR SCHNEIDER:

How do opinions work? Is the public entitled to opinions on the process of chiropractors?

MR. JACKSON:

When we hold our meetings, there is an opportunity for public comment and opinion.

SCOTT YOUNG (Policy Analyst):

I have some regulations the board adopted in 2008. I have not found them codified yet so I do not have a *Nevada Administrative Code* (NAC) number. This is from the Legislative Counsel Bureau File No. R101-08. Section 5 refers specifically to declaratory orders or advisory opinions. It reads: "A petition to

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the Board for declaratory order or advisory opinion may only be filed by the holder of or an applicant for a license issued by the Board." It then gives some of the procedural details.

CHAIR SCHNEIDER:
Only a chiropractor can get an opinion?

MR. JACKSON:
I am not an attorney, but it seems the proposed addition to the NAC is stating if you have a question about that, then it is normally asked by a chiropractor. I am a little confused by the question.

MARSHA BERKBIGLER (Chiropractic Physicians' Board of Nevada):
I represent the CPBN. I cannot answer that question but will take it back to our attorney.

CHAIR SCHNEIDER:
Please deliver that information to Mr. Young and myself. Senator Roberson is chairing this subcommittee title area for the Committee, so he should also have the information.

DEREK DAY, D.C. (Anthem and Mobile Chiropractic):
I have definitely seen the need for CE for CAs. This extra training will help them become more efficient and elevate their level of professionalism. Continuing education will better prepare them to deliver safer, more effective care to all the Nevadans we treat. It will offer a net benefit to us all by reducing the number of adverse events with patients. The CE credits will help transition the CA position from a job to more of a career-based position. This bill, S.B. 215, will help make Nevada a more attractive place for newly-licensed CAs to relocate. I have submitted my written support of this bill ([Exhibit D](#)).

Chair Schneider:
I have received a letter from Maureen Denman, a CA from Dr. Day's office ([Exhibit E](#)). I also have a letter from chiropractor Jason O. Jaeger ([Exhibit F](#)). We will continue to work on this bill. I am closing the hearing on S.B. 215 and will open Assembly Bill (A.B.) 124.

ASSEMBLY BILL 124: Requires a funeral director to report the names of certain deceased persons to the Office of Veterans' Services. (BDR 54-162)

ASSEMBLYMAN LYNN D. STEWART (Assembly District No. 22):

In the interim, I had the opportunity of serving on the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, chaired by Assemblywoman Kathy McClain. This bill came out of that committee. On April 13, 2010, we had a meeting and heard testimony from the Office of Veterans' Services (OVS). We were informed there are 339,000 veterans in Nevada, representing about 12 percent of our population. The State veteran population is about 4 percent higher than the national average. To pay respect to Nevada veterans, that committee submitted A.B. 124. This bill requires funeral directors who obtain unclaimed human remains to notify the OVS within one year if there is reason to believe the deceased person was a veteran of the United States Armed Forces. If the deceased is found to be a veteran, the OVS would notify the funeral director, who could then arrange for interment at a national or veterans' cemetery.

CALEB CAGE (Executive Director, Office of Veterans' Services):

In Nevada, cremated remains of veterans can slip through the cracks. About ten years ago, Wes Block, our superintendent for the Northern Nevada Veterans Memorial Cemetery, decided to visit cemeteries in the Reno, Sparks and Fernley areas. In only two days, he recovered the cremains of 36 veterans. These remains had been sitting unidentified on shelves of funeral homes. Since then, Mr. Block has developed relationships with these funeral directors. The Missing in America Project (MIAP) emerged from these relationships. The mission of MIAP is to locate these lost remains. Members of our staff work with funeral directors throughout the State as volunteers with MIAP. They regularly bring cremains for us to inter at the northern and southern Nevada cemeteries. Several states have passed similar legislation, including Illinois, Missouri and Colorado. These states recognize the need to give veterans a proper burial within the state and federal veterans' cemeteries.

Nevada has two veterans' cemeteries, and OVS has volunteers working regularly with MIAP, so this bill would be well received within the State and further assist those relationships. We realize this could be perceived as an undue burden on funeral directors already serving families at very stressful times. The proposed language only requires funeral directors to report if they have, or are reasonably sure they possess, the remains of a veteran.

SENATOR COPENING:

I am in support of this bill. I participated in the first MIAP in Nevada where we interred four Nevadans whose remains had been sitting on the shelves in northern Nevada funeral homes for a number of years. It was a very special ceremony with many people in attendance. I worked for a funeral home in Las Vegas and think funeral directors would welcome this. Most funeral homes do not want remains sitting on their shelves, and would prefer they have a proper burial or interment.

CHAIR SCHNEIDER:

How do you go about finding these veterans' remains?

ASSEMBLYMAN STEWART:

If the body is intact, there might be a tattoo which could be a clue. Or maybe the date of the death might be a clue if someone comes in to look for a loved one.

MR. CAGE:

We have veteran service officers who are specifically trained to assist veterans to obtain their benefits. They are able to comb through records. Our Elko Veterans' Service Officer is going through Medicare, Medicaid and social security records. It is not always easy, though. There are remains in the Nevada State Museum which appear to be from the Civil War, and we cannot tell if this individual is a veteran or not.

CHAIR SCHNEIDER:

We will close the hearing on A.B. 124.

SENATOR ROBERSON MOVED TO DO PASS A.B. 124.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SCHNEIDER:

I am opening the hearing on S.B. 142.

SENATE BILL 142: Makes various changes concerning the towing and storage of motor vehicles. (BDR 58-924)

ROBERT L. COMPAN (Farmers Insurance Group):

I am in support of this bill. Section 1, subsection 1, paragraph a, subparagraph (3), mirrors legislation in S.B. No. 175 of the 73rd Session which was passed unanimously by both Houses in 2005. Between 2005 and 2007, the language was repealed, and no one seems to know how that happened. The 2005 bill states that if a motor vehicle is placed into storage at the request of a law-enforcement officer following an accident, the tow operator shall not post any administrative fees or processing fees until after 14 days from the date the vehicle entered the storage facility.

When you get your vehicle towed, especially from the scene of an accident, it is a traumatic experience. It takes time to contact your insurance company, determine who is at fault and figure out who is responsible financially. Currently, if your vehicle is in a tow facility for 96 hours, that company can start charging 50 percent of the lien-processing fee they have deemed through their tariff, approved by the Nevada Transportation Authority (NTA). Five days after that initial 96 hours, they can finish processing that lien-processing fee, and we have seen those fees be as high as \$600. Many times it is the insured who pays these costs, especially if they only have liability coverage. We are asking this legislative body to put back into statute what was done in 2005.

SENATOR HALSETH:

What do each of these fees encompass? My concern is a tow truck company not being able to charge a yard fee when a vehicle is brought in after an accident. Fourteen days is a long time not to be able to charge that fee. If you are involved in an accident, your car can be towed to your home or to any other address, it does not have to go to the tow yard. I am not sure why we would penalize the tow operator.

MR. COMPAN:

The main fees are lien-processing fees to initiate ownership on a vehicle. There are other charges we have been addressing with the NTA, including cleanup fees, winching fees, dolly fees, fees to put down kitty litter and fees to tape up a window on a car. These fees really add up.

SENATOR HALSETH:

If it is just lien fees you are talking about, why is there language in the bill that also references administrative fees, processing fees or any fees relating to the auction? Are you only talking about lien fees here? I do not understand why tow companies should not be able to collect fees that do not relate to the lien process.

MR. COMPAN:

The tow operator has to get that vehicle prepped to be able to sell it to recoup some of their losses. These charges should not be processed until after the lien on the car has been satisfied. It is not our responsibility to pay for an auction-prep fee for a tow operator to sell a car they do not own. My company found more than 60 charges that we feel were erroneous by tow companies in southern Nevada alone. We have had these complaints filed with the NTA since April 2010 and have had no resolution yet. We want to put these concerns into statute to protect consumers, like a consumer towing bill of rights.

Right now there are two companies with tariffs approved by the NTA and the request for quotation (RFQ) process through Las Vegas Metropolitan Police Department (Metro). This bill, S.B. 142, will allow companies to bid competitively for contracts to represent the municipality. If you have an accident in Las Vegas today, you cannot choose who will tow your car. It will mandatorily be one of the two companies contracted with Metro.

The next part of this bill, section 2, addresses competitive bidding. If a contract for a municipality were to be awarded, the city agency should enter into a competitive bidding process. The model would be what Metro is doing with their RFQs.

Section 3 specifies that if the owner of a vehicle makes a claim under his or her policy, it gives the insurance company authorization to go to the tow yard and remove the vehicle. This is done with their permission, and we take the vehicle to a tow yard, their home or a repair shop. The Nevada Justice Association and the Nevada Collision Industry Association both had some concerns with this section, so we have a proposed amendment ([Exhibit G](#)).

CHAIR SCHNEIDER:

Legal counsel has pointed out in your amendment, line 27; "first party" is not defined in statute. In order to use the term, there has to be a definition.

MR. COMPAN:

We geared this toward the insured, so the first party could instead be "insured owner." I believe that is defined in statute.

MARLENE LOCKARD (Nevada Collision Industry Association):

We are in support of this bill. We do think the wording of the amendment needs clarification. Currently, an auto body company needs a release from the insured to have a vehicle removed from the shop.

MICHAEL GEESER (AAA Nevada):

I represent AAA Nevada, and we support this bill and did so in 2005. Ninety-six hours is not enough time to get a vehicle from a tow yard in many cases. What if it is a holiday weekend? What if the victim of the accident is still in the hospital and has not called us yet? Many times, an AAA tow truck is there to get the vehicle before the four-day time period, but especially in those difficult cases, the ten extra days would help.

We support section 2, also. If tow companies work for a law-enforcement agency, the contract should go to competitive bid. For many years in Las Vegas, this has not been the case. That is starting to change, and we support that.

SENATOR SETTELMAYER:

What is the average time it takes to get a vehicle back from a tow yard? You say 96 hours is not enough, but 14 days seems to be quite a jump to the other extreme.

MR. GEESER:

That is hard to answer, because some accidents involve police reports we have to retrieve. If there is no police report, we can go to the tow yard and get the vehicle within a day. I cannot tell you the average length of time, but I can tell you that four days is a short amount of time, given holidays and accidents with injuries where victims are in a hospital.

SENATOR SETTELMAYER:

What if the owner decides not to take the vehicle back? Why not let the tow operators get the vehicles off their lots quicker by being able to contact the owners? The lien process starts that search of finding the identity of the owner.

Fourteen days just seems too long for them to have to wait before starting the lien process.

MR. GEESER:

I will furnish you with the actual average length of time it takes to retrieve a vehicle from a tow yard.

SENATOR ROBERSON:

I am sensitive to the concerns of the tow operators. We keep changing the laws affecting them, altering the requirements of what they have to do to earn a living. Mr. Compan talked about the issue of a law being passed in 2005 and amended in 2007. Could you elaborate on that?

MR. GEESER:

I do not have an answer. I remember leaving here in 2005 with the 14-day period agreed upon. Somehow, that length of time was changed, and I do not know how.

SENATOR ROBERSON:

There has to be a record of what happened. I will do some investigation.

JEANETTE BELZ (Property Casualty Insurers Association):

We support this bill and I, too, do not know why the change was made. I have submitted a letter from Mark Sektnan, Vice President of Property Casualty Insurers Association of America ([Exhibit H](#)).

CHAIR SCHNEIDER:

I have also received a letter in support of this bill from Christian John Rataj, Esq., Western State Affairs Manager, National Association of Mutual Insurance Companies ([Exhibit I](#)).

PAUL ENOS (Nevada Motor Transport Association; Nevada Towcar Council):

We oppose this bill. Section 1 references the lien process. That process is there to recoup the cost of the tow. The lien process is also the mechanism used to identify the owner of the vehicle so that person or company can be notified. The owner, the banks and the insurance companies all get notified through the lien process.

Tow operators do not want to own these vehicles. They would prefer someone come pick up the vehicle and pay the tow bill instead of having to go through the auction process. Starting the lien process later, after 14 days instead of 4, would cause notification process to the owner to be delayed by 10 days.

This creates a new set of rules for how the tow operators do the lien process for this very specific set of accidents. Right now, the tow operators can start the lien process on the fifth day. The longer the vehicle is in the tow yard and the owner does not know about it, the more fees accrue for them. Not being able to start that lien process in a timely manner will only accrue charges. While this longer time period would save the insurance company money, it could cost the owner more, and it may even cost them the vehicle.

Regarding the auction prep fee, I agree with Mr. Compan. The tow operators should not be charging auction prep fees until that lien is completed and they own the car. We are more than willing to work with Mr. Compan and NTA on this.

We understand the insurance companies are trying to run efficient businesses. We are too, but it is not up to the tow operators to pay for the inefficiencies of the insurance companies in not being able to retrieve these vehicles.

As for section 2, the competitive bid part of the bill, we understand Metro is putting out RFQs now. When you think about the amount of vehicles that must be towed from accident sites in Las Vegas, there is no one company that can handle all of them. I am a little fearful that as we put this into a competitive bid process, we may have a sole-source contract if we only award the contract to the lowest bidder. Sometimes the lowest bidder is not going to be the best company to clear those accidents. When law enforcement calls for a tow, their main objective is to clear that accident site and clear that road as fast as they can.

Regarding section 3, which says the insurance company can retrieve that vehicle after a claim has been made, we are being put in the middle again. My question is: Just because an owner of a vehicle has made a claim, does that mean the owner has given up the rights to the vehicle? Many times, there are personal effects in the vehicle; maybe there are new tires they would like to recover and sell. These are small things that will put tow operators in the middle again. We do not want to relinquish the vehicle to anyone but the registered

owner. If the insurance company gets a release from the registered owner, we will release it to that person. But as far as saying we are just going to give the vehicle to the insurance company, we do see some problems with that.

NORMAN CHAMBERLIN (Valley Towing):

I am an independent contractor with AAA but am not representing them here. This bill is more beneficial to insurance companies than it is to consumers. Some insurance companies are quicker than others in responding and processing a vehicle towed to our yard after an accident. I do not think the legislative process should be used to make up for an insurance company's inefficiencies.

The lien-process portion of this bill would be a huge hardship for us. This lien process is not a quick or easy process, and would impose another set of rules on processing vehicles. In my business, about one in three vehicles ends up abandoned. This poses another hardship, because cash flow is pretty tight these days. I need to process those vehicles as quickly as I can to recover my costs. In many cases, auction does not even pay for what I have to go through to get rid of these abandoned vehicles.

I am confused about the competitive bid portion of this bill. Is it just for Las Vegas, or is it statewide? Would it require sheriffs from Lyon County, Storey County and Carson City, as well as the Nevada Highway Patrol, to get a competitive bid and accept the lowest bid? If that is the case, it would be a huge injustice to the public because it would limit those who could provide road services in an accident situation. If this is a statewide law, the fiscal note would be huge. Each department would have to figure out how to go through the bid process and accept the bids. Each one of those bids is basically a tariff, so will NTA administrators then have to go through an overwhelming tariff-modification process?

Regarding section 3, a tow operator wants to make sure it is acceptable to the owner of the vehicle before it is released. If an insurance company has the authority to move a vehicle just by having a claim filed, am I going to be held accountable if some personal property comes up missing? That is not right. Ownership is ownership. The vehicle should only be released or towed to a repair facility if the owner of the vehicle says so.

DENNIS MILK (Tow Guys):

Section 1 would be a great expense to us to change our lien-processing time. We might be able to specify the four days as business days instead of calendar days. We need to move quickly processing liens so vehicle owners know their vehicle is in our yard. If you put off that lien process, it just increases the cost to the owner for the benefit of the insurer. Regarding section 2, I am neutral. Section 3 is confusing to me. The way it works now, the insurance company brings us a release from the owner, and we release the vehicle to them. As a citizen, I would think my ownership should not be legislated away from me. If I pay my insurance premium, I should have the right to say where that vehicle is going.

JASON KENT (Quality Towing):

The lien process is our only way to notify owners where their vehicle is located. It is also a way for us to gain rights to sell a vehicle to satisfy our lien against it if necessary. The longer that process takes, the more storage charges add up. Delaying that notice is ten days of additional storage a private owner will have to pay to get his or her car out of the tow yard. If an insured owner has an accident and then files a claim, the insurance company usually knows where the car is within 24 hours. The private owner may not know, however, especially if a family member was driving.

Regarding section 2, I am not clear why this is an insurance company issue. It seems like a police department issue, a municipality issue instead. The NTA is currently tasked with overseeing tariff rates and judging whether they are fair, both to the public and to the towing company. They do a good job regulating those rates and are very fair. The low-bid process could also result in using substandard equipment and personnel and in possible safety concerns.

Section 3, giving an insurance company the right to retrieve a vehicle just because somebody filed a claim, seems to circumvent the rights of the vehicle owner for the benefit of the insurance company. When we take possession of a vehicle, no matter who ordered the tow, our responsibility is to the vehicle owner. Those are people's possessions, and second to their house, are probably the most expensive things they own. The owner must give us written authorization before the insurance company takes the vehicle, and we want to protect that right.

SENATOR ROBERSON:

Mr. Compan, you testified this is essentially a consumer-protection bill. I am listening to both sides—to you and to these tow operators. It sounds as if this is more of an insurance-industry protection bill. I realize this is your job, but I would like to know if this proposed bill is to protect consumers or to help the insurance industry. All these fees you talk about are confusing—the timelines, the names for the different fees, etc. I would like to see a list of fees Nevada tow operators are permitted to charge. I have talked to many tow operators and they are not getting rich off this business; they take losses. Before we move any legislation, this Committee needs to be educated by both sides on the merit of this bill.

MR. COMPAN:

Regarding the competitive bidding, there are two tow companies currently on the Metro contract. We did a study and filed it with NTA. One of the companies, Company A, is an hourly employee company and the other, Company B, is on commission basis. We discovered a company on commission basis has more incentive to charge erroneous fees and to keep the vehicle at the scene longer. We also found that different companies charge standby time. One company has a tariff that allows them to start charging additional standby time after 30 minutes. We have been working with NTA to get this corrected and control costs that are allowed to us by Nevada statute.

Someone asked how many days it takes to move a car. With my company, we are taking 14-17 days. This bill does protect the consumers because they are the ones who buy the insurance product. If we can reduce the cost of their claim, that line of coverage would hopefully reduce the cost of their insurance. I cannot say that would happen today or tomorrow. It is troubling that somewhere between 2005 and 2007, this statute got changed, and no one will take responsibility for it.

Regarding section 3, we move these vehicles at the request of our insured. When they call us to place a claim, we ask if we have permission to move their vehicle to a repair facility or to a salvage lot if the car was deemed a structural or monetary total loss as outlined in Nevada statute. When we get the vehicle to our yard, all storage charges are stopped. Our insurance customer does not have to pay a charge to go in and see their car or to retrieve their personal effects or tires.

SENATOR ROBERSON:

How do you address the claim made by the witness from Las Vegas that extending this time before they can start the lien process and the owner identification process actually hurts the consumer by increasing the number of days for stowage charges?

MR. COMPAN:

The clarity in the language is that it is towed at the request of a law-enforcement officer from the scene of an accident. The majority of these tows are insured vehicles, so it will be our responsibility to get notification out to the owner.

SENATOR ROBERSON:

I am not sure how I feel about this bill. I need more data from both sides. Most of these tow operators are small businesses. I am reluctant to pass new rules and regulations on small businesses in our State without a compelling reason.

MR. COMPAN:

I will be happy to supply you with data. I realize this is coming across like it is the insurance companies versus the tow companies.

SENATOR ROBERSON:

It is.

MR. COMPAN:

If it is within the law, I would like to tell you the names of Company A and Company B. I would also like to discuss some of the other company operators who are abusing the Nevada tariff system. I am sure you will find it shocking.

SENATOR BREEDEN:

You mentioned two tow companies contracted with Metro. How many tow companies are there in southern Nevada?

MR. COMPAN:

I do not know that, but I can tell you that Quality Tow and Ewing Brothers are contracted with Metro right now. The intent of this bill is not to get companies without sufficient equipment to handle the jobs; it is just to open up competitive bidding. Any tow company would have to qualify for what is appropriate to that municipality.

SENATOR SETTELMAYER:

I would like more information on the competitive bid process. In Douglas County, there are two tow companies, so they established a rate and then rotate, taking turns with the calls. I am concerned that S.B. No. 175 of the 73rd Session just mysteriously disappeared or was amended after being signed by the Governor. To me, that is more of an issue than anything else in this room.

CHAIR SCHNEIDER:

We will get an answer on that. I am going to close the hearing on S.B. 142. Mr. Compan, you indicated there is another similar bill coming this Session, so we will hold this bill to work with it and see if we can come up with a good piece of legislation. I am opening the hearing on S.B. 213.

SENATE BILL 213: Revises provisions governing the registration requirements for employee leasing companies. (BDR 53-1018)

HELEN FOLEY (National Association of Professional Employer Organizations):

I represent the National Association of Professional Employer Organizations (NAPEO). During the 75th Legislative Session, we authored some legislation pertaining to workers' comp. It specified that any employee leasing company in Nevada had to provide financial accountability. Our industry deemed it important for organizations taking employers' money for taxes, health insurance and worker's comp to maintain working capital. We also specified these businesses be bonded if they did not have a certain minimum amount of working capital. The way the law was written, the language said they had to maintain positive working capital throughout the period covered by the financial statement. The Division of Industrial Relations (DIR), Department of Business and Industry, told us the way S.B. 213 was written, it would likely require daily audits. Donald Jayne from DIR, Brett Barratt, Commissioner of Insurance, Division of Insurance (DOI), Department of Business and Industry, and their staffs, helped us formulate better language ([Exhibit J](#)) for the proposed bill.

Page 2 of the bill, starting on line 30, refers to "13 months," and to be consistent, I want to amend my amendment to say 13 months instead of 12.

DONALD E. JAYNE (Administrator, Division of Industrial Relations, Department of Business and Industry):

I had a chance to talk to Ms. Foley, and I think we are making progress. I will review it with my legal staff. We place a high degree of importance on the financial statement audited by a certified public accountant (CPA) because at DIR we do not have financial examiners. If the language from two years ago was problematic for the CPAs, we will work to get that resolved.

We currently have about 150 professional employer organizations licensed in Nevada, so it is important to get these things resolved. I understand the confusion, because the language was ambiguous. I will look at the amendment, and the amendment to the amendment, and will work with Ms. Foley.

MS. FOLEY:

I have submitted some audit requirements from other states ([Exhibit K](#)), and also a letter from Kara J. Marshall, Assistant Director, State Government Affairs at NAPEO ([Exhibit L](#)).

CHAIR SCHNEIDER:

Mr. Jayne, please meet with Ms. Foley and Janice Moskowitz, who is the lead actuary from DOI, and work this out. I will close this hearing on S.B. 213. We are going to look into what happened to that legislation on the tow truck issue.

MATT NICHOLS (Counsel):

I do not see in the record any specific discussion on why that piece was removed but I can tell you this, that the amendment that removed it was voted on in Assembly [Committee on] Transportation. The vote was unanimous to adopt the amendment. That committee then passed that bill as amended out unanimously. The Assembly passed it out unanimously. The bill is A.B. No. 311 from the 2007 Session. Then Senate [Committee on] Transportation passed that bill out unanimously without an amendment, and it was signed into law. Whatever happened behind the scenes, the Legislature was unanimous in removing that particular piece.

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CHAIR SCHNEIDER:

Seeing no one else who wants to testify for or against this bill, we are adjourned at 3:09 p.m.

RESPECTFULLY SUBMITTED:

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance List
S.B. 215	C	James T. Overland, Sr.	Testimony
S.B. 215	D	Derek T. Day	Testimony
S.B. 215	E	Maureen Denman	Letter
S.B. 215	F	Jason O. Jaeger	Letter
S.B. 142	G	Robert L. Compan	Proposed amendment
S.B. 142	H	Mark Sektnan	Letter
S.B. 142	I	Christian John Rataj	Letter
S.B. 213	J	Helen Foley	Proposed amendment
S.B. 213	K	Helen Foley	Data sheet
S.B. 213	L	Kara J. Marshall	Letter