

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-sixth Session
June 4, 2011**

The Senate Committee on Natural Resources was called to order by Chair Mark A. Manendo at 6:25 p.m. on Saturday, June 4, 2011, in Room 2144 of the Legislative Building, Carson City, 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 Mark A. Manendo, Chair
Senator David R. Parks, Vice Chair
Senator Dean A. Rhoads
Senator Michael Roberson

COMMITTEE MEMBERS ABSENT:

Senator John J. Lee (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Maggie Carlton, Assembly District No. 14

STAFF MEMBERS PRESENT:

Michelle Van Geel, Policy Analyst
Charity Fowler, Counsel
Sandra Hudgens, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Nevada Conservation League
Ken Mayer, Acting Director, Department of Wildlife
Tina Nappe, Sierra Club, Toiyabe Chapter
Michael Hillerby, Honda North America
Alfredo Alonso, Alliance of Automobile Manufacturers
Samuel McMullen, Johnson Controls, Inc. Consulting; Bio Diesel of Las Vegas, Inc.

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Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association

CHAIR MANENDO:

We will open the hearing on Assembly Bill (A.B.) 453 to allow Assemblywoman Maggie Carlton to speak on the record. Then we will close the hearing on A.B. 453 and come back to it after we hear A.B. 503.

ASSEMBLY BILL 453 (1st Reprint): Requires a supplier of motor vehicle fuel to provide certain statements relating to the presence or possible presence of manganese in any motor vehicle fuel sold or distributed by the supplier. (BDR 51-689)

ASSEMBLY BILL 503 (2nd Reprint): Revises certain provisions governing the conservation of habitat for wildlife. (BDR 45-1091)

ASSEMBLYWOMAN MAGGIE CARLTON (Assembly District No. 14):

This bill is not about methylcyclopentadienyl manganese tricarbonyl (MMT). That decision has been made by the State Board of Agriculture (SBA), State Department of Agriculture (SDA). The regulations have been passed, and the Legislative Commission adopted them. This bill is about labeling; it is about consumers knowing what they are putting in their gas tanks when they drive up to the pump.

We had a lot of discussion earlier this week in a meeting. This bill is not a "for or against" issue. We are not discussing MMT. This bill is to let people know what additive they are putting in their cars. It is a requirement for disclosure, and I think it is fair and honest. This bill will not apply to Washoe County or Clark County because they already have ethanol mandates and air quality standards. This will apply to the rural counties.

A couple of members of the Assembly Committee on Natural Resources, Agriculture, and Mining had concerns as we processed the bill. They came to me, and we had discussions. This bill is the answer to their concerns about limiting the actual disclosure language on the pump.

There will be people proposing amendments. It is your decision to be either for or against those amendments. We just want to make sure there is a label on the gas pump.

CHAIR MANENDO:

We are going to close the hearing on A.B. 453 and open the hearing on A.B. 503.

KYLE DAVIS (Nevada Conservation League):

Assembly Bill 503 does three things. It changes the habitat fee to a conservation fee. This part of the bill could be changed because I came across new information. The original purpose for changing the habitat fee to a conservation fee was to allow the money raised for this particular fee to be used for monitoring and surveys. Since that time, we have done more research and realized we do not have to make this language change for this money to be used for monitoring and survey work. It might be better to change the language back to the habitat fee.

The second part of the bill increases the current habitat fee. The cost for a hunting, fishing or trapping license includes a \$3 habitat fee. That money goes into specific habitat work for wildlife species restoration and that type of thing. This bill would increase that fee to \$5 for residents and \$10 for nonresidents. Species we are concerned about are the sage grouse and the golden eagle. The sage grouse is warranted but precluded by the U.S. Fish and Wildlife Service, Department of the Interior, from being listed under the Endangered Species Act. That could affect the economic development we want to do in our State, especially renewable-energy developments in rural areas. If the golden eagle is put on the list of endangered species, it will halt a lot of that development happening right now. Two-thirds of the land required for renewable-energy development is in Elko County and could be impacted by a sage grouse listing as an endangered species. That would be in Nevada's best interest to avoid. This increase in habitat fee will prevent those species from being listed and will benefit other wildlife species. Many interested parties and sporting organizations are on board with the concept of the fees increasing.

The third thing the bill does is to create a new voluntary fee. It creates a wildlife-watcher fee. It is an attempt to receive contributions from nonconsumptive conservation groups—groups that are members of my coalition like the Sierra Club and the Audubon Society. We want to step up to do our part helping manage wildlife in our State. The concept is to have people who are not hunters or fishers accessing the wildlife management area to pay a \$5-per-year habitat fee. It says, "may pay an annual conservation fee." We are trying to get this program started, and see what kinks might occur. While

hearing A.B. 503 in the Assembly, there were concerns from members of the Committee on Natural Resources, Agriculture, and Mining about how this might be handled. We thought the best way to handle it was to make it voluntary from the beginning. We can return at the next Session to request a permanent fee.

Section 2, paragraph 3 proposes 18 percent of this money credited to the account may be used for the purpose of monitoring wildlife and its habitat. Some money in this account can be used for monitoring and survey work. We want to make sure we are spending our money wisely. We do not want to do specific habitat work, seed work and that kind of work without benefiting wildlife population growth. By spending no more than 18 percent of this money, we would be mirroring other accounts in the Department of Wildlife (DOW). We do not want to do habitat work that is not having an impact on wildlife. This would include pre-imposed survey work.

SENATOR RHOADS:

We processed a bill the other day on wild land trust. How different is this bill from that bill? Is it a duplication?

MR. DAVIS:

The bill you processed earlier this week sets up a gift account for the DOW allowing them to accept outside gifts. It would allow them to do the same work as this bill. It allows private groups to donate money to help in the management of wildlife. This bill is like the hunting and fishing license except it is voluntary.

KEN MAYER (Acting Director, Department of Wildlife):

We are neutral on the fees but supportive on the flexibility the bill provides us. It seemed odd that we could use money for habitat work but not for survey work. We had been looking for ways to incorporate involving the nonhunting public to pay for wildlife management in Nevada. This is a first step in offering a program through which the general public could contribute to improving habitat by a voluntary fee.

TINA NAPPE (Sierra Club, Toiyabe Chapter):

The Sierra Club, the Lahontan Audubon Society and the Red Rock Audubon Society all endorse the concept of the conservation fee for the nonhunting public. This is one way we can contribute directly to the DOW and its operations, which are important to all of us.

CHAIR MANENDO:

We will close the hearing on A.B. 503 and reopen the hearing on A.B. 453.

MICHAEL HILLERBY (Honda North America):

Honda is a part of Global Automakers. We signed in on the neutral position because we would like to support the bill with an amendment we are proposing. The proposed amendment would return part of the bill to its original version before the first reprint. Global Automakers, which includes Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Toyota, Suzuki, Nissan, Mitsubishi and others, support this proposed change. All of these manufacturers are concerned about MMT or manganese as a fuel additive being a potential danger to cars. On behalf of Honda North America and the Alliance of Automobile Manufacturers, there is a proposed amendment ([Exhibit C](#)). We would like to amend A.B. 453, section 3, subsection 6 as proposed, [Exhibit C](#), to make required rather than optional the recommendation to consult an owner's manual for a vehicle before using the motor vehicle fuel. All our members advise against the use of manganese in fuel because of the damage it can do to engine components and sensitive emission control components.

There have been a variety of studies in Canada and other places, and a great deal of information from a number of experts, about the damage to catalytic converters, to older vehicles and to pickup trucks. This fuel additive would primarily be used in the rural areas. Consumers should be alerted about something that is not good for their cars by looking in their owner's manual to make their decisions.

ALFREDO ALONSO (Alliance of Automobile Manufacturers):

The Alliance of Automobile Manufacturers include Toyota, BMW and others. We support the proposed amendment as Mr. Hillerby described it. For a decade or more, the SBA had banned MMT in Nevada. On March 3, 2010, the SBA removed that ban. The U.S. Environmental Protection Agency (EPA) has not approved MMT either, but has allowed it. We can provide information on the studies performed if requested. Our automakers are telling us manganese is harmful to the catalytic converters. It has been proven in studies. Because of the ethanol mandates required in Washoe County and Clark County, this only affects the rest of the State. A new fuel is being introduced into the marketplace that can potentially harm your vehicle. You will hear arguments that it could or could not affect your warranty, and that is a concern. It is more of a concern for the person in Elko driving a Ford F-150 pickup when it is out of

warranty, and this new fuel is introduced to the pickup, corrupting its system. The truck's owner is now out approximately \$2,000 or more because of using gasoline with an additive the person did not know was in the fuel. This additive is currently sold as STP or another brand off the shelf by people who choose it for their vehicles. Most of the modern world is moving away from an octane booster that was introduced after lead was removed from the system. Some places still use the additive, but it is being phased out in most places. Canada and Europe are moving away from using the additives. Consumers should be notified additives are being introduced into the fuel. Retailers are not affected by this additive. They may choose to purchase it or not to purchase it. This bill will help the dealers who are the first people to get hit with complaints when the warranty is expired, and they know how to handle them. This bill will protect the consumer.

MR. DAVIS:

We are in support of A.B. 453. I was involved in discussions with this bill in the interim. After going over the studies, this bill strikes a balance when the label is in place and the consumer is informed. I have not reviewed any of the proposed amendments and will leave that to the discretion of the Committee.

SAMUEL McMULLEN (Johnson Controls, Inc. Consulting; Bio Diesel of Las Vegas, Inc.):

I represent JCI Consulting, the patent holder and the company that has validated this fuel additive across the Country as a low-cost octane booster. We just had an economic study done. We supported SBA's removal of the prohibition against MMT. There was no reason why MMT should be prohibited in Nevada. After three days of hearings, there was a decision that there was no reason related to engine or emissions control, that the prohibition should exist. Since last summer, MMT in fuel has been available in Nevada. The MMT is a fuel additive that is declining, but it is utilized where there is not another octane booster that comes as a feature of reformulated fuels. If you use ethanol, that is enough to boost octane, there is no reason to add manganese. The MMT is legal in 49 states and it is used in 50 countries. Some of the people who use the fuel in Nevada use it with MMT as an octane booster.

We appeared against this in the Assembly. After looking this over the last few weeks and conversing with my client, we want an accurate label. The proposed amendment we oppose is biased. The proposed amendment we just heard indicates there is something wrong with manganese, which may or may not be

wrong depending on the situation. My proposed amendment ([Exhibit D](#)) was to make sure someone at the governmental level would make sure the label was accurate and fair. It would be appropriate not to mislead people by indicating the warning is approved or authorized by the EPA. As a fuel, MMT has been used for almost 20 years, and now is not banned in Nevada.

Our proposed amendment is not far off from the way the bill reads today. We would be happy with our proposed amendment included, or we would be happy as the bill is currently constituted. There was an allusion to the warranty issue. We have no issue if the Committee adopts our proposed amendment or if the Committee adopts the bill as it currently exists. We would have concerns about anything in the bill that relates to the warranty or the owners manual because of the impacts of implications of federal law.

SENATOR PARKS:

What size signage will be used on the pump or handle? Will there be a stick-on label or will it be 5 inches by 5 inches? Was that ever discussed?

CHARITY FOWLER (Counsel):

Senator Parks, that's in the section 3, where it talks about the labeling. The size and format and all that will be determined by regulation by the State Sealer of Weights and Measures [Division of Measurement Standards (DMS), SDA]. So, it was discussed that we left that up to the discretion of the regulatory process to actually decide on how big it should be and all of that.

CHAIR MANENDO:

Do you have any idea what they are thinking? It would be nice to have an idea what they envisioned.

SENATOR PARKS:

I was curious about the process Canada has on the additive, since they have had it since 1976. Australia has put manganese in their fuel, too.

MR. McMULLEN:

I was not a participant in the SBA meeting, but the issue was whether or not MMT should be prohibited. A lot of evidence was put into the record by both the proponents of A.B. 453 and by Afton Chemical. They talked about the studies in Canada after the utilization of MMT for many years about the issues

addressed by the proponents of A.B. 453. Studies were made on catalytic failure and things like that, which were also conducted by the EPA. The EPA has an obligation to disallow a fuel additive if it will damage, limit or reduce the effect of the emissions-control system or air quality. The EPA has approved MMTs since the mid-1990s. The studies done proved there was no significant reason for catalytic failure or emissions-control system damage from the manganese additive. There was a significant track record and database from the use of MMTs in Canada since they had it for almost 20 years.

PETER KRUEGER (Nevada Petroleum Marketers and Convenience Store Association):

I would like to call the Committee's attention to section 1, subsection 2, where it says, "A supplier shall: ... 2. Affix a label... ." This bill requires suppliers to go on property they do not own, attach a label to equipment they do not own, and do things not in their supply contract. The person representing the supplier in most cases in these transactions is a truck driver delivering fuel to the particular dispenser. This bill mandates fuel suppliers, who have no legal nexus other than to deliver fuel, to affix a label to someone else's property. We find this situation impossible with which to work. The authority of a supplier could be challenged because he has no right to enter someone's property to attach a label to someone else's property. We are opposed to "the supplier shall" portion of the bill. All the other labels found on the pumps are put there by the retailer. The way this bill is written would place our members in a questionable position from a legal standpoint.

CHAIR MANENDO:

When Assemblywoman Maggie Carlton testified, she said she was okay with any proposed amendment as long as it required some type of label. Have there been further discussions other than what we have already discussed? Has there been a compromise about which I am not aware?

MR. McMULLEN:

I was hoping to have an opportunity to talk with Assemblywoman Carlton and tell her our position, but we sent her an e-mail today. No, this is not a compromise. We just want to make sure the label is accurate and fair. The people on the SBA and the SDA are the people with the most experience and interaction with this. We support either A.B. 453, or that bill including our proposed amendment. My language is similar to Assemblywoman Carlton's bill by considering all parties. The State Sealer of Weights and Measures with DMS

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would make a decision on an accurate label. I do not think we are far apart, and I hoped Assemblywoman Carlton would know we are fine with having a label. I do not think this bill should tilt opinion one way or the other. It should be something factual and not dissuade people from buying a product out of fear. The label for ethanol simply states it contains ethanol. The early labels with ethanol stated that it was required by the government. The labeling should be in the hands of the State experts with input from all parties. I informed my client this is the mechanism there ought to be.

SENATOR RHOADS:
Who will pay to put on the labels?

MR. MCMULLEN:
The supplier pays and affixes the labels.

CHAIR MANENDO:
We will close the hearing on A.B. 453. There being no further business, the Senate Committee on Natural Resources is adjourned at 7:08 p.m.

RESPECTFULLY SUBMITTED:

Sandra Hudgens,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 453	C	Michael Hillerby	Proposed Amendment
A.B. 453	D	Samuel McMullen	Proposed Amendment