

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-sixth Session
March 22, 2011**

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:41 p.m. on Tuesday, March 22, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 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 Shirley A. Breeden, Chair
Senator Michael A. Schneider, Vice Chair
Senator John J. Lee
Senator Mark A. Manendo
Senator Dean A. Rhoads
Senator Mike McGinness
Senator Elizabeth Halseth

STAFF MEMBERS PRESENT:

Kelly Gregory, Policy Analyst
Bruce Daines, Counsel
Laura Adler, Committee Secretary

OTHERS PRESENT:

Kelly Thomas Boyers
Brian LaVoie, Hillary LaVoie Effort
Chuck Reider, P.E., Chief Safety Engineer, Nevada Department of Transportation
John R. Johansen, Office of Traffic Safety, Department of Public Safety
John Fildes, M.D. F.A.C.S. F.A.C.C.M., Chief, Division of Trauma and Critical Care; Chair, Department of Trauma, University of Nevada School of Medicine

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CHAIR BREEDEN:

We will open the hearing on Senate Bill (S.B.) 235.

[SENATE BILL 235](#): Makes failure to wear a safety belt in a motor vehicle a primary offense. (BDR 43-38)

KELLY THOMAS BOYERS:

I support S.B. 235. I am not here to be profiled as a grieving parent or to share the personal cost I have endured, but as a concerned citizen and taxpayer in support of this policy for the public good. I have lost faith in my government's process of change and had not planned to participate. However, the people in this room and the lives we continue to lose that embrace youthful activism to take our Country forward, inspire me to continue participating and giving my support for this important legislation. We have to make decisions based on how to incorporate data we know saves lives, reduces health-care costs and creates the framework to make Nevada the best it can be to assure us that public safety is a priority over special interests. Public safety is a fundamental piece government provides for us. We can rest assured in this. I encourage the Committee to move forward with S.B. 235 and reach across to the Assembly and share support. This is not something to be treated like a baseball card; there are lives at stake with this legislation.

BRIAN LAVOIE (Hillary LaVoie Effort):

I represent the Hillary LaVoie Effort and her three surviving siblings. She was killed in a car crash on September 26, 2010. Hillary was aware of Nevada's weak secondary seat belt law and knew she could not be pulled over if she was not wearing a seat belt. Perhaps it was for comfort that she did not have her seat belt on when the accident occurred. There is more detail in my prepared testimony ([Exhibit C](#)).

I believe if Nevada had a primary seat belt law, Hillary would probably be with us today. Eighty-six percent of polled Nevada voters support a primary seat belt law. It is time to stop playing political games and do something that makes sense for the people of Nevada by passing S.B. 235.

I would like to play the video because I would like to put a face to Hillary ([Exhibit D](#), is on file in the Research Library). I conclude my testimony with a quote that Hillary often used: "Daddy, life is an occasion. Rise to it."

CHAIR BREEDEN:

What high school did your daughter attend?

MR. LAVOIE:

She graduated from Shadow Ridge High School.

CHUCK REIDER, P.E. (Chief Safety Engineer, Nevada Department of Transportation):

My office oversees the Highway Safety Improvement Program, which typically develops engineering solutions on all public roads and evaluates crash data. We also spearhead the Nevada Strategic Highway Safety Plan (SHSP) as shown in my presentation ([Exhibit E](#)). Between 2006 and 2010, on average, 325 people were killed annually on our State highways. That is not acceptable. We are working toward reducing those numbers. The strategic plan is a collaborative effort covering enforcement, education and emergency medical services. There is a complete list in the handout. Since 2006, we have noted an encouraging trend in reducing fatalities and serious injuries.

In the five-year study period, five areas stood out. The unbelted-occupants category comprised 32 percent of all fatalities. The seat belt fact sheet shows that young males ages 16 to 25 are most at risk, which is not unusual as that age group is at risk for just about anything. Two-thirds of the unbelted occupants in crashes are in urban areas, and 37 percent are in rural areas. The rural crash types are typically caused by running off the road. In urban areas, the angle crash is the most serious. The data shows how many people lose their lives by not being belted. There are other costs not as apparent. One cost, calculated by University Medical Center of Southern Nevada (UMC), links crash data to hospital outcomes. Unbelted vehicle occupants, on average, cost \$30,000 more than belted occupants involved in an accident. It is nearly a \$128 million difference in insurance cost and cost to the taxpayer.

Another cost we hear little about is traffic congestion. The Texas Transportation Institute calculated traffic incidents account for 55 percent of congestion. A fatal or serious injury crash closes an interstate highway for 4 to 5 hours, affecting emergency vehicles and tens of thousands of commuters. If someone is wearing a seat belt, it will change a fatal crash to an injury crash or an injury crash to a property-damage only crash. The National Highway Traffic Safety Administration (NHTSA) analysis shows 93 percent of Nevadans buckle up, leaving 7 percent of unbelted drivers accounting for 32 percent of our fatalities.

If a primary seat belt law could result in a 1 percent reduction, 14 lives would be saved annually. The SHSP objective is to reduce unbelted fatalities by 20 percent by December 31, 2015. The only unbelted fatality number acceptable is zero.

JOHN R. JOHANSEN (Office of Traffic Safety, Department of Public Safety):
We are one of the partners in SHSP to improve traffic safety in Nevada. The first chart in my handout ([Exhibit F](#)) was prepared by Centers for Disease Control and Prevention (CDC), showing the ten leading causes of unintentional injury deaths in Nevada from 2003 to 2007. Motor vehicle traffic fatalities rank number 1, and number 2.

On the next page are some of the numbers we use when looking at traffic fatalities. Using Mr. Reider's "encouraging trend" chart, [Exhibit E](#), there were 243 fatalities in Nevada in 2009. Of those fatalities, 150 people were riding in cars and trucks, and 52 percent were not wearing their seat belts. We know that seat belts are at least 50 percent effective; therefore if that 52 percent had been wearing their seat belts, 78 lives most likely would have been saved.

One reason seat belt use is low in fatal crashes is that while there is a 93 percent observed seat belt daytime usage rate, nighttime seat belt usage goes down to 63 percent. Looking at SHSP emphasis areas, [Exhibit E](#), for 2005 to 2009, there were 584 unbelted fatalities. Had they worn seat belts, 292 more people would likely have lived.

The NHTSA's formula calculates the improvement of 3 percentage points from enacting a mandatory seat belt law, [Exhibit F](#). We are proud to say our law enforcement and education campaigns have increased seat belt usage to the last observed rate recorded of 93 percent. With a primary law, NHTSA estimates Nevada could achieve a 2.7 percentage point increase from the 2010 seat belt use rate, saving an estimated 5 lives, 61 serious injuries and \$17 million in costs each year. Average costs from University Medical Center and Sunrise Hospital and Medical Center trauma in 2008 for unbelted-uninsured motor vehicle patients are \$87,753 and \$73,272 for belted patients. The cost difference more than doubles for 2009. Costs for the unbelted uninsured and Medicaid motor vehicle trauma patients for 2005 to 2009 add up to \$61 million. Adding the State's share of Medicaid to the uninsured category is the cost of vehicle-caused trauma care.

Last year, we did a Nevada attitudinal survey, a new requirement from NHTSA, the source for our traffic safety funds. It is interesting to note that 9.2 percent white, not Hispanic, received tickets for not wearing seat belts, and all others combined were 2.7 percent. There is also a page, [Exhibit F](#), listing minority groups supporting a primary seat belt law. The last page shows the United States in which 18 states, including Nevada, have secondary seat belt laws; New Hampshire has no adult seat belt law.

SENATOR LEE:

I decided to wear a seat belt when I decided my kids were more important than not wearing one, and I needed to be there for them. There is a time when we make that decision. It is not uncool to wear a seat belt. I got it, and I am big on seat belts. The Nevada chart, [Exhibit F](#), shows 2,000 Nevada fatalities from 2003 to 2007. Do we know if that figure is all Nevadans?

MR. JOHANSEN:

That figure is national. The numbers in each square on the CDC chart is years of life lost. That is one way the CDC measures fatalities, loss of productivity, etc. There is a lot more detail behind those numbers, but the chart shows the ranking.

SENATOR LEE:

Do you know the number of people who died last year for lack of seat belt use?

MR. JOHANSEN:

There were 150 people in 2009. That is the most recent accurate data. Numbers for 2010 are preliminary.

SENATOR LEE:

Of that 150, how many were Nevadans? Do we track that?

MR. JOHANSEN:

I can provide that information but did not include it. Typically, 75 percent to 85 percent of fatalities are Nevadans. Approximately 20 percent had out-of-state driver's licenses.

SENATOR LEE:

I am sure people from California continue to wear their seat belts in Nevada. But the other states around us have secondary laws. If the primary seat belt law is

for drivers under age 18—I am looking at a personal-rights issue because I know it will come up—is mandatory. If you took a portion of the population saying they are so young and immature in driving skills we should mandate they use seat belts, how many of the 150 people might have been under age 18?

MR. JOHANSEN:

About five people would have been drivers. Passengers would be a larger number. One reason Nevada has few under age 18 fatalities with or without seat belts is that we have an extremely good graduated-driver's licensing law. The law says you must have 50 hours of training, 10 hours at night, a provisional license where you may not drive at certain times; there is a curfew, and you may not have passengers for the first 3 months in the car unless they are family members. It is restrictive because we know the young drivers need to learn to drive with as few distractions as possible. What happened, as an unintended consequence, is the 16- and 17-year-olds are delaying getting their driver's licenses until they turn 18, when there are no restrictions. They just pass the test to get their license. As a result, the number of 16-year-old drivers dropped by nearly 80 percent when comparing pre-graduated licenses to post-graduated licenses. There are approximately 3,000 16-year-olds with Nevada driver's licenses. There are 6,000 to 7,000 17-year-olds for whom driver's licenses have been delayed.

SENATOR LEE:

Do you think texting on cell phones contributed to a lot of those accidents? Has the federal government tried to tie a seat belt law to highway funds?

MR. JOHANSEN:

Surprisingly, in most studies and reports, the biggest violators of texting are people age 25 to age 35. This age group is setting a bad example for our younger generation. We are fortunate to have a proportionately small number of fatalities in the under-age group. I wish I could say the same for the youngsters' caregivers who make up the larger number of fatalities on our roadways.

The federal government likes to intervene about seat belts, though they do not intervene often. Under 21 drinking age is in the federal register, and if we tried to reduce that age, we would lose highway funds. The last time they did anything was to reduce the blood alcohol level to 0.08 percent, and that was under threat of losing highway funds. When it came to seat belts, the federal government tried something different by using an incentive program. We receive

Section 402 Highway Safety Funds (402) which are generic traffic funds that can be used for anything for improved safety. If we were to pass a primary seat belt law, we would receive a one-time award of \$7 million to \$8 million, five times the annual amount of 402 funds. However, we could also qualify by exceeding the seat belt usage rate on the observed survey of over 85 percent for two years in a row—we did that.

SENATOR HALSETH:

The "*Click It or Ticket*" campaign has been the most successful of all the national seat belt campaigns. I am quoting the American Civil Liberties Union that opposes this law, but makes a good point ([Exhibit G](#)): "In states that already have primary enforcement laws, the average seat belt use rate was 88 percent in 2009. Nevada's seat belt usage is already at 91 percent," This makes me question whether the primary enforcement law will increase the use of seat belts. Secondly, this bill has nothing to do with safety, since we already have a mandatory seat belt law. Senate Bill 235 is proposing that not wearing a seat belt become a primary offense. My next point is that if an officer suspects anybody in the vehicle is not wearing a seat belt, even people in the back seat—you cannot see seat belts in the back seat—it gives reason to issue a ticket. That concerns me. Since seat belts are already mandatory, I do not understand why we are talking about that now.

MR. JOHANSEN:

The bill would allow an officer to stop you if he sees you without a seat belt on. It is a valid point, particularly in Clark County where it is much hotter and car windows are heavily tinted. Typically, law enforcement officers make stops for all the many normal reasons and then can cite for not wearing seat belts. Senate Bill 235 changes the perspective of the general driving population that it is riskier without using the seat belt. As far as our seat belt usage rate being so high, we have worked since 2004 to increase seat belt usage from a low 70 percent usage to 93 percent. We rank in the middle of all the primary seat belt states. Most all the secondary seat belt states are below the primary states. High seat belt usage states are Washington, Oregon and Hawaii at 97 percent. We expect to go from 93 percent to 95 percent or 95.5 percent observed usage. The harder number to change is fatal crashes, and this bill would help do that by making seat belt usage a primary law.

SENATOR HALSETH:

I have lived in a state with a primary seat belt law and did not see a difference. I still saw youths driving and riding without using seat belts. I cannot say this bill would make people put on their seat belts. Would S.B. 235 give police officers probable cause to search a vehicle?

MR. JOHANSEN:

I cannot answer. My understanding is the probable cause to search a vehicle would come after the stop is made for another reason, usually a traffic violation. Law enforcement could answer your question better.

JOHN FILDES, M.D. F.A.C.S. F.A.C.C.M. (Chief, Division of Trauma and Critical Care; Chair, Department of Trauma, University of Nevada School of Medicine):

I am a professor of surgery, a traffic researcher and National Chair of Trauma Surgery, American College of Surgery. The notion that 91 percent or 92 percent of our population use seat belts means that 8 percent or 9 percent of our population are expendable. This is unacceptable. I went on line and pulled up the Nevada fatality data related to motor vehicles. Based upon the rate of uninsured and cost of medical care, the component of direct medical care taxpayers have to pay, means that each of us has to write a check for \$50 a year. If this cost could be reduced by improving seat belt usage, this would have a big financial impact. As many as 50 percent of the patients seen in trauma centers—patients who have not worn seat belts—have been driving impaired. Giving latitude to law enforcement to help with that issue is also an important part of the strategy behind S.B. 235.

On a daily basis, the doctors and nurses at trauma centers see the human costs. We mend broken people. For every person who dies, four people become permanently disabled. People who die incur high medical expenses, but there are other considerations. Who ends up supporting their family and children? Who replaces them at work? Who replaces their lost productivity in our community? And for others who are disabled and require special assistance, who will also help them? I cannot bear this notion that 8 percent is expendable. The financial arguments, human arguments and legal arguments are clear.

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CHAIR BREEDEN:

There being no further business before the Senate Committee on Transportation, the meeting is adjourned at 4:39 p.m.

RESPECTFULLY SUBMITTED:

Laura Adler,
Committee Secretary

APPROVED BY:

Senator Shirley A. Breeden, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B.235	C	Brian LaVoie	Testimony
S.B.235	D	Brian LaVoie	Hillary LaVoie Effort - DVD
S.B.235	E	Chuck Reider	Nevada Strategic Highway Safety Plan
S.B.235	F	John R. Johansen	Nevada Department of Public Safety handout
S.B.235	G	Senator Halseth	American Civil Liberties Union of Nevada letter