

**MINUTES OF THE  
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-sixth Session  
March 17, 2011**

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:42 p.m. on Thursday, March 17, 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 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  
Patricia Devereux, Committee Secretary

**OTHERS PRESENT:**

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Sgt. Chuck Callaway, Director, Intergovernmental Services, Las Vegas  
Metropolitan Police Department  
James M. Wright, Chief, State Fire Marshal Division, Department of Public  
Safety  
Troy L. Dillard, Deputy Director, Department of Motor Vehicles  
Michael Spears, Co-Chair, Advisory Board on Automotive Affairs, Division of  
Compliance Enforcement, Department of Motor Vehicles  
Peter Krueger, Capitol Partners, LLC; Nevada Emissions Tester Council; Nevada  
Collision Industry Association

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John Sande IV, Jones Vargas; Nevada Franchised Auto Dealers Association  
Ed Gobel, Go West Institute Transportation Infrastructure Division  
Linda West Myers, Go West Institute Transportation Infrastructure Division

CHAIR BREEDEN:

We will begin our work session with Senate Bill (S.B.) 140 ([Exhibit C](#)).

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

You have my proposed amendment ([Exhibit D](#)) drafted after speaking with people concerned about the bill's exemptions. The bill's intent is not to disrupt walkie-talkie or two-way radio services used by certain industries. Mr. Daines will explain our thinking behind redefining allowable communication devices in the mock-up of the amendment.

BRUCE DAINES (Counsel):

... having had a number of requests from various industries who were using two-way radios, rather than carving out individual exceptions for them, we just tried to carve out a functional description of the handheld devices that they were using. And the result was if the handheld device is attached to a sending and receiving unit by a cord, and the only control that's actually on the microphone is simply a push-to-talk, kind of a toggle, then we felt that that didn't implicate the issues addressed in the main part of the bill. There you have it.

CHAIR BREEDEN:

In the bill's section 1, subsection 2, we added the language:

The provisions of this section do not apply to: (a) A paid or volunteer firefighter, law enforcement officer, emergency medical technician, ambulance attendant or other person trained to provide emergency medical services, or a person designated by the Director [of the Department of Motor Vehicles] or a sheriff or chief of police, who is acting within the course and scope of his or her employment or carrying out other designated duties.

The reason for the change is that individuals, such as search-and-rescue personnel and others, are assisting law enforcers, and we did not want to restrict them in the course of their duties. Their radios do not have frequencies.

SENATOR LEE:

This bill is the right first step to take care of a problem that has caused grief to many families. Constituents have wondered why this law is not already in statute. I would like to bring the bill along a bit slower, so I have proposed an amendment ([Exhibit E](#)). It drops the first-, second- and third-offense penalties to a lower level. A judge can impose a fine of \$50, but there is an administrative assessment up to \$250 added to tickets that is directed to Mothers Against Drunk Driving and other organizations. Judges are not allowed to waive those assessments but can waive the fine. A fine of up to \$250, plus the assessment fee, would be too onerous. Dropping fines to \$50 for the first offense; \$100 for the second offense and \$250 for the third offense will eventually teach drivers that it does not pay to use cell phones or text.

We added that if drivers are stopped between July 1 and December 31, 2011, officers will teach and train them with a warning only. Chair Breeden is working with Traci Pearl, Office of Traffic Safety Administrator, in the Department of Public Safety (DPS) and with the Nevada Department of Transportation (NDOT) to provide an educational campaign with signage and public-service announcements to tell the public the law becomes effective on January 1, 2012.

I deleted section 1, subsection 6 because we should not revoke driver's licenses. Will we also take away their trucks and tools—when will this stop? The financial ramifications will stop the prohibited activities.

SENATOR MANENDO:

The proposed amendment addresses the use of Global Positioning System (GPS) units. Many vehicles have built-in GPSs, but the bill addresses devices that are "affixed to the vehicle." Some drivers have GPS units that are not permanently affixed. I have such a device. What is the bill's intent?

MR. DAINES:

It's my understanding that what was initially meant by this language would be those in-board, dashboard-mounted units. The evil aimed at were the people who were getting GPS information

on their cell phones. So I'm ... supposing this language still would exclude any device where the person does have to take his eyes off the road to be looking at a device held in his hand to do the navigating. Another device that's just temporarily affixed to the vehicle I think would not be objectionable under this language.

SENATOR MANENDO:

I just wanted to make sure because people without fancy cars with built-in GPS units stick them on with Velcro. Would law enforcers like to address my question? Do they agree with Mr. Daines as to the bill's intent?

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):

If a portable GPS unit is used in a vehicle, and the driver holds it to manipulate it, is that not what this bill is trying to prevent?

SENATOR MANENDO:

I am talking about units that are not permanently affixed to vehicles.

MR. ADAMS:

Most GPS units can process audible directions. As long as a driver is not manually manipulating a unit, the bill would not apply.

SENATOR MANENDO:

Built-in GPS units require the operator to punch in numbers.

MR. ADAMS:

Most built-in units accept voice commands.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 140.

SENATOR MANENDO SECONDED THE MOTION.

SENATOR RHOADS:

I will vote against this for reasons outlined in its Legislative Counsel's Digest: "Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless and unsafe manner." Does that not cover cell-phone use and texting?

SGT. CHUCK CALLAWAY (Director, Intergovernmental Services, Las Vegas Metropolitan Police Department):

The distinction is the law concerning inattention to driving is usually applied after the fact if someone runs off the road or is involved in an accident and an officer issues a citation for inattentive or lack-of-due-care driving. Cell-phone use and texting cause accidents. However, if a driver runs a stoplight and causes an accident, that is listed as the cause, not because the person was using a cell phone. The intent of S.B. 140 is more proactive, to allow an officer to stop a phone-using or texting driver before an incident occurs.

SENATOR RHOADS:

What if a driver is eating a hamburger or drinking a Coke?

SGT. CALLAWAY:

If a patrolling officer saw a driver eating a hamburger while driving normally, that in and of itself would not be probable cause to stop the person. However, if the driver swerved or did something unsafe with the vehicle, and the officer determined the eating or drinking caused the behavior, a citation could be issued for inattention or recklessness.

SENATOR RHOADS:

If you are talking on a cell phone yet driving normally, why would an officer not pull you over? Under this bill, even if you are driving safely, can you be pulled over for talking on the phone?

SGT. CALLAWAY:

That is correct. The bill's intent is to stop drivers from using cell phones and texting because statistics show that is dangerous and causes accidents. An officer could pull you over even if you are driving normally if he or she witnesses texting or cell-phone use.

SENATOR RHOADS:

Under existing law, can you not do so if a person is driving recklessly while talking or texting?

SGT. CALLAWAY:

If an officer witnesses a violation, and he determines the cause was cell-phone use, under the driver-inattention statute, the person can be cited for both offenses. The officer cannot stop someone simply for cell-phone use.

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SENATOR RHOADS:

Does existing law state that you can be ticketed for operating a vehicle in an unsafe manner?

SGT. CALLAWAY:

Correct. The new law would give officers the ability to stop drivers before an accident could potentially occur.

SENATOR MCGINNESS:

Although I tend to agree with Senator Rhoads, when I go back to my district, my constituents tell me this is the bill that they want passed. We may be back next Session with changes to the bill, but I will support it now.

SENATOR SCHNEIDER:

I will also support this bill because when I drive up Flamingo Avenue in Las Vegas, I see drivers constantly texting. It is just as bad as driving drunkenly. Parents need this bill as a crutch. They tell their teen drivers not to text, but it is not illegal. I would like to see a heavier enforcement hand; the fines are too low. I would like to see three-time offenders lose their driver's licenses for a year. That would get their attention.

SENATOR HALSETH:

I agree with Senator Rhoads. Current law states, "It is a crime to engage in various activities while operating a motor vehicle." It does not state, "It is a crime to engage in various activities that will cause you to go off the road." I know a person who was driving safely and cited for talking on a cell phone. I will vote against this bill.

THE MOTION PASSED. (SENATORS HALSETH AND RHOADS VOTED NO.)

\* \* \* \* \*

CHAIR BREEDEN:

I have worked with Ms. Pearl and NDOT Director Susan Martinovich on getting the word out about this bill, should it become law. Ms. Pearl will sponsor the "Text Later" campaign, which will be similar to the "Click It Or Ticket" campaign. Ms. Martinovich said her department will help with signage about the cell-phone and texting ban, especially on roads entering the State.

We will close the work session and open the hearing on Assembly Bill (A.B.) 30.

ASSEMBLY BILL 30: Revises provisions relating to the authorization of certain emergency vehicles. (BDR 43-457)

JAMES M. WRIGHT (Chief, State Fire Marshal Division, Department of Public Safety):

Assembly Bill 30 revises *Nevada Revised Statute* (NRS) 484A.480, which allows for additional divisions within DPS to own and operate authorized emergency vehicles. Currently, the only DPS division with authorized emergency vehicles is the Nevada Highway Patrol (NHP). The bill proposes to add the divisions of Capitol Police, Investigations, State Fire Marshal, Training and the Office of the Director of DPS.

CHAIR BREEDEN:

Are you requesting the legislation become effective upon passage and approval?

CHIEF WRIGHT:

Yes.

TROY L. DILLARD (Deputy Director, Department of Motor Vehicles):

The Department of Motor Vehicles (DMV) has a proposed amendment (Exhibit F). We met with DPS Director Chris Perry and discovered that, according to the authority statute examined by the Legislative Counsel Bureau, emergency-vehicle permits are issued by DMV under NRS 484. Historically, that has never been the case; NHP has always issued them. Our proposed amendment clarifies the granting of DPS proper authority to issue permits. This is a mutual agreement between the two departments.

The DMV has some heavy-duty diesel enforcement powers—marked units in the Las Vegas and Washoe County regions—that were not included in the authority.

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We are seeking the same amendment as NHP to add those units to the authority list to receive emergency-vehicle permits.

CHIEF WRIGHT:  
The DPS supports the proposed amendment.

CHAIR BREEDEN:  
We will close the hearing on A.B. 30.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS  
AMENDED A.B. 30.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BREEDEN:  
We will open the hearing on S.B. 238.

[SENATE BILL 238](#): Revises provisions concerning the Advisory Board on Automotive Affairs. (BDR 43-994)

SENATOR MANENDO:  
I brought this bill forward at the request of DMV's Advisory Board on Automotive Affairs.

MICHAEL SPEARS (Co-Chair, Advisory Board on Automotive Affairs, Division of Compliance Enforcement, Department of Motor Vehicles):

I am a shareholder in Collision Authority, a multi-location, collision-repair business in Las Vegas. Some Legislators may be unaware of the valuable resources available through the Advisory Board on Automotive Affairs (Board). It was created during the 73rd Legislative Session to help develop the language of the Class A collision-repair license bill, which is a higher level of licensing for auto body shops. That bill became law in 2007. The Board has also analyzed customer complaints and the methods used in investigating them and determining disciplinary actions.



The Board is tasked with studying, analyzing and advising DMV on the automotive-repair industry. Our request for S.B. 238 is to bring those recommendations and studies to the attention of both legislative transportation committees. The Board has seven members but is missing vital representation from three members of the automotive industry. This bill would add one representative of each of these industries: auto-emissions stations, motor vehicle insurers, and new and used vehicle dealers. The Board would then be able to represent the automotive industry more fully. Senate Bill 238 would also remove a member of the general public in order to maintain the odd number needed to prevent tied votes. The bill does not have a fiscal note.

SENATOR HALSETH:  
Which Board position would be removed?

MR. SPEARS:  
The bill would remove a general-public representative.

CHAIR BREEDEN:  
How would you decide which member to remove?

MR. SPEARS:  
I do not know. The Board would probably recommend that removal.

MR. DILLARD:  
One of the general-public members represents an industry proposed to be added. It may then just be a transparent transition.

SENATOR HALSETH:  
Do you have someone in mind to fill the vacated position? Just because that industry representative is a member of the general public, should we disregard that a member of the public is being removed?

MR. DILLARD:  
I was speaking neutrally on the decision, simply trying to explain how a member of the general public might be chosen. It would be argumentatively feasible that the aforementioned general-public member would switch to the position representing his industry.

MR. DAINES:

As drafted, the notion was that the two members of the public would be permitted to serve out their existing terms. And so the appointment of the third of the new members would wait until that slot automatically becomes available. We are eliminating the positions for one of the two public members; we are not actually kicking a serving member off the Board.

SENATOR HALSETH:

This bill adds two more positions. Will one of them not be from the general public?

MR. DAINES:

"We are essentially adding three new positions, one to represent each of three new regulated bodies. And we are removing one of the seats that is currently reserved for the general public, and there will be one seat remaining."

SENATOR MCGINNESS:

Has there been a problem finding members of the general public to fill seats? Has it been problematic for them to attend the Board meetings?

MR. SPEARS:

There has not been a problem with either of your concerns.

PETER KRUEGER (Capitol Partners, LLC; Nevada Emissions Tester Council; Nevada Collision Industry Association):

The Nevada Emissions Tester Council represents people who do smog testing, and, under this bill, one of its members would be added to the Board. The Nevada Emissions Tester Council and Nevada Collision Industry Association support S.B. 238. I attend both groups' meetings, and many times, the business discussed at the Board was emissions-related questions and complaints from the public and industry. With DMV representatives present, Board meetings are a good forum to air issues, and if necessary, bring them to the attention of the next Legislature. While the collision industry is currently represented on the Board, this bill would add an emissions-tester position and a position for a new-and-used-vehicle dealer. In my four or five years of Board involvement, I am not aware of any member taking a per-diem or travel reimbursement from the State.

SENATOR MCGINNESS:

Does the Board meet in southern and northern Nevada or just in Las Vegas?

MR. KRUEGER:

Teleconferencing is the most-used method to conduct meetings, so there are no travel expenses.

SENATOR MCGINNESS:

Have any Board members asked for travel expenses?

MR. KRUEGER:

No, that has not happened for at least three to four years.

SENATOR MCGINNESS:

If the Board goes from seven to nine members, could not nine people ask for travel expenses?

MR. KRUEGER:

Yes.

SENATOR MCGINNESS:

How would that be funded?

MR. KRUEGER:

I do not know.

MR. DILLARD:

The Board's per-diem expenses are funded through DMV's Division of Compliance Enforcement. At the Board's inception, meetings were held mostly in northern Nevada, and the southern Nevada members paid their own travel expenses to attend. There was a member from the south and one from the north, and expenses were paid for the former's commute to meetings. In the last 2 to 2.5 years, the State's videoconferencing system has been used for meetings, negating travel expenses. Per-diem and travel expenses are no longer in the budget base.

SENATOR MCGINNESS:

What if all nine Board members were impoverished? How would you pay their travel expenses?

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MR. DILLARD:

Because of the videoconferencing, there is very little travel involved, unless members claimed the mileage from their businesses in either half of the State. That has not been a concern in the past.

SENATOR MCGINNESS:

Are there any Board members from rural Nevada?

MR. DILLARD:

No one is traveling from rural Nevada. Board members primarily live in the Reno and Las Vegas areas.

CHAIR BREEDEN:

Is it required that Board members from the south travel to the north, or vice versa?

MR. DILLARD:

There is nothing requiring travel to meetings in statute or the Board's charter.

CHAIR BREEDEN:

Is videoconferencing the least-expensive option?

MR. DILLARD:

Yes. With the videoconferencing, there is a visual connection between members in both halves of the State.

SENATOR MCGINNESS:

Who fills the vacant Board positions?

MR. DILLARD:

Board members are appointed by the Office of the Governor.

JOHN SANDE IV (Jones Vargas; Nevada Franchised Auto Dealers Association):

The Nevada Franchised Auto Dealers Association supports changes S.B. 238 would make to the Board.

ED GOBEL (Go West Institute Transportation Infrastructure Division):

This is an excellent piece of legislation; however, we are concerned that the number of the Board's general-public representatives would be reduced. It

appears that one potential public member has a slight conflict of interest by representing an industry. The Board should not reduce its general-public members because they have provided a valuable service. An alternative would be to keep the two general-public members and not add the emissions-industry representative. The Board has functioned well without that position.

We are also concerned with the new requirement that Board members must have lived in the State for five years and have represented an industry for at least three of those five years.

LINDA WEST MYERS (Go West Institute Transportation Infrastructure Division):  
I would echo the comments of my brother, Mr. Gobel.

SENATOR MANENDO:

I want to disclose that I work for the automotive-repair industry, specifically in collision authority. I do marketing and public-relations work. Representatives of the industry came to me because I am somewhat involved in it. The bill's nature is advisory, and I told them it was worthy of a hearing.

CHAIR BREEDEN:

We will close the hearing on S.B. 238. Could all of the testifiers work with Senator Manendo on possible amendments and then get back to me? Seeing no

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other business before the Senate Committee on Transportation, this meeting is adjourned at 4:33 p.m.

RESPECTFULLY SUBMITTED:

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Patricia Devereux,  
Committee Secretary

APPROVED BY:

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Senator Shirley A. Breeden, Chair

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

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 140	C	Kelly Gregory	Work session document
S.B. 140	D	Senator Breeden	Proposed Amendment
S.B. 140	E	Senator Lee	Proposed Amendment
A.B. 30	F	Troy Dillard	Proposed Amendment