

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-sixth Session
March 29, 2011**

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:12 p.m. on Tuesday, March 29, 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

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Capital Senatorial District

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Ron Skibinski, Deputy Sheriff, Douglas County Sheriff's Office
Paul J. Enos, CEO, Nevada Motor Transport Association
William Bainter, Lieutenant, Nevada Highway Patrol, Department of Public Safety
John Madole, Executive Director, The Associated General Contractors of America, Inc., Nevada Chapter

Mike Rich, Trucking Supervisor, Q&D Construction, Inc.

CHAIR BREEDEN:

We will open the hearing on Senate Bill (S.B.) 322.

SENATE BILL 322: Revises provisions governing motor vehicles. (BDR 43-1008)

SENATOR JAMES A. SETTELMAYER (Capital Senatorial District):

Several months ago, I was contacted by Deputy Sheriff Ron Skibinski on a similar issue about trucks. Subsequently, I contacted numerous people in the trucking industry to develop S.B. 322 to improve this section of the law. There are federal grants to help people learn how to weigh trucks through a training program. Trucks that are too heavy destroy the roads and are dangerous to others on the roads. The grants help to offset the costs of training and equipment.

As the law is now, counties with a population under 100,000 do not come under the description of having category I peace officers for the purpose of weighing trucks. The peace officer may qualify, but the county does not, which is the problem. The individual peace officers get certified and then travel outside their jurisdictions to weigh trucks; that is problematic. It would be more important and relevant to allow these smaller counties the ability to weigh trucks within their jurisdictions. In that respect, they would be limited to weighing trucks only within their jurisdiction. Senate Bill 322 is designed to eliminate the population cap and to ensure those who are weighing trucks have the proper training. The Nevada Highway Patrol, Department of Public Safety (NHP) and other agencies say the North American Standard Inspection Procedure of the Commercial Vehicle Safety Alliance is the premier training program for weighing trucks.

There are a few issues in drafting this bill that need to be addressed with an amendment. However, there was not enough time to have it ready for this meeting. The NHP has a program called "Weight in Motion." The NHP would like to add after line 7, section 1, subsection 2, "This does not apply to the weight and motion activities that are conducted by the Nevada Highway Patrol." For section 5, subparagraph (3), the change is unnecessary, and the NHP would like to retain existing law.

SENATOR RHOADS:

If I were to take a truckload of cattle from Nevada to Idaho, how would this be different if the bill went through?

SENATOR SETTELMAYER:

Going from Elko to Idaho, this bill would give your county the ability, if there is reasonable suspicion the vehicle was overweight, that with the proper training, they would be allowed to stop that vehicle. Peace officers do not have the authorization under existing law, because it is limited to counties with populations of 100,000 or more. For example, Douglas County law enforcement personnel have the training, and they may travel to Washoe County in order to weigh the truck. It is a way around the existing law. Senate Bill 322 would restrict weighing trucks to their own jurisdictions, while also giving smaller counties the option to do just that. We also wanted to include "reasonable suspicion," because we did not want law enforcement officers to pull over an empty truck just because it is passing through.

RON SKIBINSKI (Deputy Sheriff, Douglas County Sheriff's Office):

I approached Senator Settelmeyer a few months ago about the change to the *Nevada Revised Statutes* (NRS) three years ago. That change limited certain officers' ability to enforce the NRS. Under that NRS, Douglas County does not qualify because its population is 35,000. I and my partner are certified through the North American Standard Inspection Procedure. We have to look the other way on overweight vehicles due to the NRS, and we would like to enforce it as Douglas County roads are being damaged by overweight trucks. This is why we asked for S.B. 322 to change the NRS so officers with the specialized training can use all the tools available.

SENATOR RHOADS:

How can you look at a truck and determine it is overweight?

MR. SKIBINSKI:

How much tires are spread out is a good gauge. Also, the amount of cargo can be an indicator.

PAUL J. ENOS (CEO, Nevada Motor Transport Association):

Last session, local law enforcement was given the ability to weigh trucks suspected of being overweight only in Clark County and Washoe County. That was done because of a lack of enforcement on big trucks traveling on surface

streets. We saw where the Federal Motor Carrier Safety Administration (MCSAP), U.S. Department of Transportation, was giving grants to local entities for truck enforcement. Whether law enforcement suspected a truck was overweight or not, they could check it and issue a citation. If a truck was riding low on its axles or had bulging tires, the NHP would have to be called. This would delay delivery of the truck's cargo. As a result, law enforcement was given the proper training in counties over 100,000 population. In S.B. 322, we are requiring an additional threshold of training under the North American standards. The federal government has put forth regulations about drivers and trucks which is the comprehensive safety analysis, making roadside inspections more relevant to truck operation and carrier ratings. Having that extra threshold of training is good for the peace officers who perform truck inspections. We know improved overweight truck inspections will help reduce damage to our surface streets. We are an organization favoring safety and support S.B. 322 to help address the issue of overweight trucks.

SENATOR RHOADS:

They have the authority now on Interstate Highway 80 between Reno and Elko to pull over trucks, check log books and inspect cargo. Do they have the authority to weigh those trucks?

MR. ENOS:

The NHP does have the authority to inspect and weigh trucks as the lead (MCSAP) agency in Nevada. However, local law enforcement officers do not have that ability, unless they are in a county with a population of 100,000 or more and they have gone through a weight-enforcement class conducted by the NHP. A NHP pickup on the highway carries the authority and ability to weigh trucks.

WILLIAM BANTER, LIEUTENANT (Nevada Highway Patrol, Department of Public Safety):

The NHP is neutral on S.B. 322. We have a question about the "reasonable suspicion" requirement to weigh a vehicle. In general, during roving enforcement with allied agencies, we have no problem. However, we do have weigh-in-motions scales utilized at our check sites on the interstate highway system. These are scales that weigh trucks as they go through the check site at a slow speed, between 5 miles per hour and 8 miles per hour. We do not utilize "reasonable suspicion," nor could we under those conditions because each vehicle is weighed. This is associated with a size-and-weight enforcement

program mandated by the Federal Highway Administration. If we do not comply, we are subject to sanctions up to 5 percent of our State Highway Fund; it is infrastructure and preservation. The NHP suggests that the reasonable suspicion, in section 1, subsection 2, does not apply to weigh-in-motion activities conducted by NHP.

Section 1, subsection 5, paragraph (a), subparagraph (3) mentions the Commercial Vehicle Safety Alliance as a source for training. They do not have a vehicle weight-enforcement training program and we recommend that be eliminated. As stated in the NRS, the NHP will continue to offer that training to allied agencies.

JOHN MADOLE (Executive Director, The Associated General Contractors of America, Inc., Nevada Chapter):

Originally, we were opposed to S.B. 322, but are now neutral after listening to others' testimony.

MIKE RICH (Trucking Supervisor, Q&D Construction, Inc.):

I would also like to change my opinion on S.B. 322 to neutral. I have an observation in that from the California state line to Fernley, a truck could be pulled over by six different entities. With the possibility that each stop could be up to one hour, a driver's whole day is shot. If the different entities could communicate with each other that a particular vehicle has already been pulled over and determined to be legal, they could let the vehicle continue. Without communication, there is the possibility of being stopped by NHP and law-enforcement agencies in Reno, Sparks, Washoe County, Storey County and the Pyramid Lake Paiute Tribe in Wadsworth just in one trip. Please take this into consideration.

SENATOR SETTELMAYER:

What was not stated is those six jurisdictions can already pull a vehicle over but cannot weigh the truck. Those entities can pull over the vehicle and make the drivers wait until the NHP arrives. This bill would allow a local jurisdiction not only to pull over vehicles, but actually weigh the trucks and get the drivers on their way.

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CHAIR BREEDEN:

We will close the hearing on S.B. 322 and open the work session on S.B. 42.

SENATE BILL 42: Authorizes the testing of drivers involved in fatal vehicle accidents for the presence of alcohol. (BDR 43-293)

KELLY GREGORY (Policy Analyst):

Senate Bill 42, as summarized ([Exhibit C](#)), was heard on February 24, 2011.

SENATOR SCHNEIDER MOVED TO DO PASS S.B. 42.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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SENATE BILL 91: Revises provisions governing driving under the influence. (BDR 43-626)

MS. GREGORY:

First heard on February 24, 2011, S.B. 91 is summarized ([Exhibit D](#)).

SENATOR LEE:

Senator Manendo, please teach me something. Is 0.18 blood alcohol concentration (BAC) like having two beers? I do not drink alcohol and have no personal knowledge regarding this subject.

SENATOR MANENDO:

Somebody my size to get to the legal limit in Nevada of 0.18 BAC would have to drink about 5 to 6 beers in a couple of hours without eating. You would have to be intoxicated to get to 0.15 BAC or 0.18 BAC levels. People have died at 0.18 BAC. The threshold for lowering the BAC is reasonable and should have been done a long time ago.

SENATOR LEE MOVED TO DO PASS S.B. 91.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MS. GREGORY:

The last measure ([Exhibit E](#)) for this work session is S.B. 238. The bill was first heard in Committee on March 17, 2011. Senator Manendo requested a conceptual amendment ([Exhibit F](#)) which he will review with the Committee.

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

SENATOR MANENDO:

We were talking about composition of the Advisory Board on Automotive Affairs. Concern was expressed by a member of the public about removing one of the two public members from the Board. As a result of a hearing, it was decided to keep the two public members, with one being from a rural county.

SENATOR HALSETH MOVED TO AMEND AND DO PASS AS AMENDED S.B. 238.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BREEDEN:

There being no further business before the Senate Committee on Transportation, the meeting is adjourned at 3:52 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. 42	C	Kelly Gregory	Work Session Document
S.B. 91	D	Kelly Gregory	Work Session Document
S.B. 238	E	Kelly Gregory	Work Session Document
S.B. 42	F	Senator Manendo	Work Session Document