

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-sixth Session
April 7, 2011**

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:34 p.m. on Thursday, April 7, 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
Laura Adler, Committee Secretary

OTHERS PRESENT:

Richard Perkins, R & S Investments
Marlene Lockard, Nevada Collision Industry Association
Danny Thompson, Nevada State AFL-CIO
John Griffin, Insurance Auto Auctions
Paul J. Enos, CEO, Nevada Motor Transport Association
Chuck Callaway, Sergeant, Police Director, Las Vegas Metropolitan Police
Department
Shawn Yadon, Vice President, Corporate Affairs, Copart, Inc.
Thomas Baumbach, Milne Towing Services
Joseph Kirsch, Manager, Milne Tow & Transport

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Bill Bainter, Lieutenant, Nevada Highway Patrol, Department of Public Safety
David Walker, Walker Towing; Ewing Brothers
Dennis Milk, Tow Guys; Manager, Silver State Towing
Joe Braverman, United Road Towing, Quality Towing
Catherine Krause, Chief Information Technology Manager, Records and
Technology Division, Department of Public Safety
Mark Anthony (Tony) Almaraz, Chief, Nevada Highway Patrol, Department of
Public Safety
Mark Fiorentino, Greater Nevada Auto Auctions
Samuel McMullen, Copart, Inc.
Bruce Breslow, Director, Department of Motor Vehicles
Alisa Nave-Worth, Intellectual Technology, Inc.
Tom Jacobs, Public Information Officer, Department of Motor Vehicles

CHAIR BREEDEN:

We will open the hearing on Senate Bill (S.B.) 407.

[SENATE BILL 407](#): Revises provisions relating to tow-cars. (BDR 58-1031)

RICHARD PERKINS (R & S Investments):

I spent 25 years with the Henderson Police Department, many as an accident investigator, and the last 3 years as chief of police. During my law enforcement career, I have been to more than 1,000 vehicular accidents.

If you were involved in a vehicular accident, officers would arrive, set up traffic controls, attend to injured and preserve the scene. The accident investigation then commences with an officer filling out a traffic accident report, NHP 5, ([Exhibit C](#)) as prescribed by the State. Early in the accident investigation, the officer is required to obtain insurance information. Then the duty tow-truck company, contracted with the law enforcement agency, is called to the scene to remove the vehicle. The tow company takes the vehicle to their storage yard unless the owner directs the vehicle to another location. Not many people know they can inform the tow driver where to take their vehicle. The owner notifies the insurance company, which sends an adjustor or has the vehicle taken to a shop or another location. According to the 5 major insurance companies, a vehicle stays in a yard an average of 18 days.

The issue is that government cannot take someone's property, even damaged or disabled vehicles on a roadway, without the person's permission or without a

public safety or other compelling public reason. There are statutes that provide law enforcement with those authorities. There are good reasons to remove damaged or disabled vehicles from public property.

Over the last several years, this unregulated and monopolistic environment has been brutal on consumers. Several months ago, my client Bobby Ellis, who happened to be one of my duty tow companies when I was chief of police in Henderson, was asked by some insurance companies to look over an audit of tow and storage charges and provide his analysis. What he saw was offensive. Citizens and their insurance companies were being charged outrageous fees for storage of their vehicles. There were added fees for things such as letting a citizen access the stored vehicle to retrieve personal belongings or for covering a broken window if weather looked bad, etc. These storage fees often amounted to \$1,000 to \$2,000. Fees have crept up over time because of the unregulated monopoly tow companies have had for decades. These costs are often more than the actual cost to repair the vehicle. Insurance companies paid these fees on behalf of their insured and then repaired or totaled out the vehicle. All these costs become a component of the premiums we all pay for vehicle insurance.

After completing the audit, Mr. Ellis was asked by insurers to make suggestions as to how to bring costs under control. The conclusion was that the current unregulated government-driven monopoly was bad for the consumer. Instead of creating more government bureaucracy, it was recommended to create a market allowing private insurance companies to negotiate and contract with private businesses for storage yards, which would ultimately benefit the consumer. We are here to ask for statutory authorization to take this action to create a private industry solution through a competitive market.

Mr. Ellis is working hard to effect this change because he is a community-minded individual who donates thousands of dollars to worthy causes, including the Whitney Elementary School where his impact on the children is widely documented by the media; University of Nevada, Las Vegas; Basic High School; Nevada State College; Nevada Partners; and several other worthy causes. As chief of police, if I had a citizen with a hardship and inability to afford tow charges, I could always count on Mr. Ellis to work with towing companies on the cost, usually waiving them. Make no mistake, Mr. Ellis would try to compete in the vehicle storage lot market should you pass this bill. There is no assurance he would get a contract, but constituents would benefit from

his attempt to compete for their business, because the others, including current governmental tow contractors in Nevada, would have to be competitive with prices to win such a contract.

There are such costs as a set-out fee where, if you need to see your vehicle that is not running, they will use a forklift to bring the vehicle to a viewing area; that cost is generally \$50. A lien processing fee can be charged after 96 hours of storage. Time frames are set by the State. An additional fee may be charged for another follow-up on lien processing of \$104.50. After 336 hours of storage, there is another fee costing \$144.50. To prepare a vehicle for auction after it has been in the lot for 15 days, whether the auction occurs or not, is a \$495 fee. Almost always, there is a yard maintenance fee of \$5 added to storage, and that is for soaking up oil or other engine fluids that may have leaked from the vehicle. If the window needs taping to keep the elements out, that is \$35. Subsequent lot visits to get to your vehicle are from \$35 to \$65. If you need to visit after hours or on holidays, that is an extra \$35 to \$75. Owners and adjusters often have to wait up to an hour before they can look at the vehicle. If an owner cannot afford the \$2,000 to retrieve the vehicle out of storage, and auction of the vehicle yields less than the charges, the storage yard will sue the owner for the balance. That results in the loss of the car and also having wages garnished.

The bill does not take away any towing opportunity. The towing companies will still get all the police impounds such as those resulting from drivers driving under the influence (DUI), being involved in felony arrests or any case where the vehicle is impounded for evidentiary purposes. Those incidents amount to 60 percent to 70 percent of towed vehicles. This bill applies to the 30 percent to 40 percent of vehicles towed because of an accident. The opposition to S.B. 407 will say this is a special interest bill because of my client. As already mentioned, there is no guarantee he would get a contract, and at this time he does not have a vehicle storage yard to qualify under the bill. The opposition might say this is a step towards municipal lots found in other jurisdictions. As mentioned, this is a private solution, not a government solution. They will say the penalty is too severe. What if police make a mistake; would the tow driver be held responsible? Of course not. All elements of a crime have to be proven in a court of law. Some might say the bill sounds like a monopoly—this is demonizing the bill in order to defeat it. This bill is about creating competition. It might also be said the current duty tow companies have expensive leases that will no longer be needed and they will have to lay off people. As mentioned,

60 percent to 70 percent of their business will still be intact with police impounds. Critics might say it could mean increased tow costs if the lot is too far away. If a lot is too far away, an insurance company will not contract with it because the insurance company would not want to pay the extra tow fee for the increased distance. Another criticism could be that would mean inconvenience to the vehicle owner if the lots are too far away. Almost all the existing lots in Clark County are already on the outskirts of towns and cities. With respect to the rights of the owners versus the rights of the insurance companies, the statute already provides for the owner to have the vehicle towed anywhere so chosen.

Madam Chair, I recall a conversation with you about a family member's bad experience with towing. I also had a conversation with Senator Horsford about an 86-year-old constituent whose vehicle was towed on a holiday weekend. Not only could she not get her car out of storage for several days, her bill was over \$1,000. Almost everyone we spoke to in this building has had a bad tow experience that this bill would fix.

Being involved in a traffic accident is one of the most stressful and tragic things anyone will ever experience. You should not be a victim of the accident and of these storage fees. This bill is a new way to bring relief to consumers at a time when they need it most.

Section 1 of S.B. 407 says that an insurance company "may" designate a vehicle storage lot. "May" is important, in that if an insurance company does not want to go through this exercise, they do not have to go through it. If someone's insurer does not want to contract, then that vehicle would go to an existing storage lot. Section 1, subsection 1, means that if an insurance company has contracted with a storage lot, that notification has to be sent to law enforcement and to the tow companies. Section 1, subsection 2 designates the various conditions to tow a vehicle.

Just prior to this hearing, I had conversations with members of law enforcement over their concerns about the wording in the bill. It was never our intention for a law enforcement officer to tell a tow operator where to take a vehicle. We struggled to find the language that would best capture the intent. The wording in question was, "shall," used in section 1, subsection 2. Insurance information has to be obtained anyway as part of an accident investigation. If a vehicle has rolled over several times, contents get strewn everywhere, making it impossible

to find information, or a vehicle is not accessible until it is winched out of where it landed. Change section 1, subsection 2 to read, "A law enforcement officer shall, when readily available, advise an operator of a tow-car of the identity of an insurance company that provides coverage for a vehicle and the operator of the tow-car shall deliver the vehicle directly to a designated vehicle storage lot if:" I will leave the expression from law enforcement to them when they testify, but that should satisfy the concerns expressed to me.

The reason for the penalty in section 1, subsection 3 of S.B. 407 is that we did not have confidence in good behavior unless there was a penalty. This incentivizes people to follow the law. The reason for the description of a storage lot in section 1, subsection 4 is to make sure the consumer's vehicle is protected. We did not want five acres or ten acres of flatlands somewhere without any security around it, leaving it open to the possibility of vehicles being vandalized or stolen. The intent behind the lot size is so there are not too many storage slots making it easier for people to find their vehicles. The separation from other businesses by a wall protects from access by people who might remove vehicle contents; we consider security important.

Most of the ideas put forth in the bill were taken from contracts that existed between my former agency and the tow operators or the Las Vegas Metropolitan Police Department's (Metro) input. We wanted to make it easy by also complying with *Nevada Revised Statute* (NRS) 706.4485. This would meet with Metro's existing requirements with their tow operators. Additionally, we wanted to be sure to comply with local ordinances regarding planning, zoning, fire codes, etc. Further, S.B. 407 defines other security measures for the storage lot, including at least one enclosed building, because many recovered vehicles are in good condition or slightly damaged, expensive or they are so damaged they cannot be properly protected from the elements. Included are the definitions of "boat" and the meaning of "vehicle" ascribed to it in NRS 706.146.

VICE CHAIR SCHNEIDER:

The bill has a long list of things a storage yard must do. Does your storage yard comply with that list now?

MR. PERKINS:

My client does not meet the requirements at this time. Mr. Ellis would have to make the same capital investment as would anyone else.

VICE CHAIR SCHNEIDER:

So, Mr. Ellis did not create something that only he has and only he can provide?

MR. PERKINS:

The suggestion is that this is special legislation for Mr. Ellis because he has a yard somewhere, so that only he can comply with the bill and get all the business. That is not the case.

SENATOR MANENDO:

What happens to the car if the police officer does not tell the tow operator where to take the car? Where does the vehicle end up?

MR. PERKINS:

It would go to the duty tow company's storage yard, if there is no designation by the insurance company.

CHAIR BREEDEN:

Please explain a duty tow.

MR. PERKINS:

Each law enforcement agency contracts with tow companies. We call them the duty tow. Generally, there is more than one tow company; they rotate on a cycle, sometimes one month at a time. When the officer in the field talks with the communications center, it is generally for the duty tow.

CHAIR BREEDEN:

Is there any indication that rates would go down for the consumer?

MR. PERKINS:

I have asked that question numerous times, and the answer has always been the same; nobody will ever guarantee rates will go down. Towing is a component of the cost of the insurance premium. You cannot watch a couple of hours of television without seeing a commercial for automobile insurance. Right now, it is a very competitive market. There are many components to insurance rates, such as medical costs, storage fees or repair of the vehicle. I doubt any insurer would absolutely say, based on S.B. 407, that premiums would go down.

SENATOR RHOADS:

Who makes the determination on where an abandoned car would go?

MR. PERKINS:

If there is no reason to impound the vehicle for evidentiary purposes or it was not used to do something wrong, then most likely it would go to the insurer's designated storage lot.

SENATOR RHOADS:

If the Nevada Highway Patrol (NHP) finds something in the glove compartment identifying the insurer, then would the NHP call the insurance company?

MR. PERKINS:

The NHP will call the insurance company's designated tow company. Again, it would be if that information was readily available. If the car was locked or not accessible, or for a host of reasons they cannot get insurance information, then the vehicle would go to the duty storage locker. At many accidents I investigated, I would find 15 insurance cards, most of them expired. We do not want law enforcement spending an hour looking for insurance information. If the insurance information is readily accessible to the officer, then it would go to the insurance storage locker, otherwise to the duty tow lot.

MARLENE LOCKARD (Nevada Collision Industry Association):

We support S.B. 407. It should curb or eliminate many of the auto towing issues in Nevada. It does this by giving a central holding place for cars that cannot be driven from the scene of accidents. It allows time for the consumer or insurer to make an educated choice as to where to have the car repaired, while minimizing unnecessary fees. Currently, some tow-truck operators take vehicles to shops the customer or insurer chose, because of issues between body shops and towing companies. Many times, allowing the tow-truck operator to choose where the vehicles go leads to inflated and fraudulent charges. The bill can also reduce the time it takes to locate crash vehicles, as it often takes several days.

DANNY THOMPSON (Nevada State AFL-CIO):

We support S.B. 407 because it will reduce costs to the consumers. My family and people in my office have had experiences with astronomical tow service costs when added up. Anything that can be done to rein in costs is supported. On behalf of ex-Senator Warren B. Hardy II, who had to be at another committee hearing, his client, Nevada Pic-A-Part supports the bill.

JOHN GRIFFIN (Insurance Auto Auctions):

We support the bill. We have been in discussion with Mr. Ellis and Mr. Perkins regarding section 1, subsection 4, paragraph (b), and have submitted a proposed amendment to S.B. 407 clarifying the language by adding a subsection 5 ([Exhibit D](#)).

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

We are in opposition to S.B. 407. I agree with Mr. Perkins that it is never a good day to be in a car accident. It is never a good day to have your car towed. It is always a traumatic and negative experience for all involved. While Mr. Perkins set out the scene of an accident from the perspective of law enforcement as fairly organized, in actuality, it can be confusing trying to clear the accident, take care of the injured and get traffic moving again. Putting another priority on law enforcement to determine where a vehicle is to go takes away from their priorities and also from clearing that vehicle. If there are multiple insurance companies and multiple lots, this raises questions needing answers, especially if a tow-car operator could be cited with a misdemeanor.

I would like to clarify Mr. Perkins' statement during his testimony that the tow-car industry is unregulated. The industry is regulated, especially for non-consent tows, which is a tow initiated by law enforcement or somebody other than the owner of the vehicle. An example would be someone parking in an apartment space on private property and someone else has the vehicle towed without the driver's consent. Those tows are regulated by the Nevada Transportation Authority (NTA). Before a tow-car operator has the authority to be an operator, that person has to get authority from NTA. There are about 79 carriers in Nevada that have gone through the process to be licensed by the NTA. If there are issues with charges, lot fees or set-out fees, or if people think they were handled in an unfair way, they can file a complaint with NTA—and people do. Every person here with a tow-car operation can testify that this is not an unregulated industry; it is very regulated. In the past, people have tried to deregulate the tow-car industry. We tried deregulating it, but stepped back because if we do not have the NTA regulating the tow-car industry, then who would regulate it? We decided that is not what we wanted. Right now, the cost of a tow cannot be mitigated. Regardless of who tows that vehicle, the cost of the tow is the cost of the tow. There are different charges based on what company tows the car. Some will charge a clean-up fee or a dolly fee, and there will be various charges based on that company's business model. Every charge a tow company puts on the bill is regulated by the NTA. The tow-car company

has to file a tariff with the NTA, and it must be approved by NTA before the company can make that charge. If there is a variation on the tariff, then that company is in violation and can be brought before the NTA.

The question arose as to why there would be a charge to look at your vehicle. When that vehicle is in that company's holding yard, it is in the care and custody of that tow-car operator. Not only is that tow-car operator responsible for the vehicle but also for all personal effects in that vehicle. If somebody comes into the yard and takes a stereo out of that car or steals a purse or any personal effects, the tow-car operator has to make it right with the customer. That is why they will send an escort with owners of cars to make sure they are getting only their personal effects and not looking to see what other vehicle has a better stereo.

CHAIR BREEDEN:

Did you say a tow-car company can charge the owner of the car a fee to approach their car?

MR. ENOS:

If that is in their tariff and approved by NTA, then they can. Not all companies charge a visit fee. Some will give the first visit free to allow the owners to get their effects from the car. But if someone wanted to make ten trips to the vehicle, then it would require that tow-car operator to escort that person to the vehicle that many times, taking them away from other business, while making sure the visitor is not going to other cars in the yard.

CHAIR BREEDEN:

Is that employee not getting paid for eight hours to do whatever the job requires?

MR. ENOS:

Yes, that person is getting paid to do the job. However, there are other things they do. There may be other people at the counter who may also need escorting. There are members of the tow-car industry who can talk about the processes and how they are set up. But they cannot charge for anything that is not in their tariff, which is regulated by NTA.

SENATOR MCGINNESS:

If the tariff is capped at \$100, can a tow-car operator charge \$85?

MR. ENOS:

I believe they have to follow the tariff as filed with NTA. Perhaps one of the tow-car operators can verify that. It is my understanding that when you file a tariff, these are your rates, these are the charges, and you cannot vary from it.

SENATOR MCGINNESS:

Does every tow-car operator charge the same?

MR. ENOS:

No. Some charge different rates for different circumstances. Some charge by the hour for a tow. Some charge for the hookup and per mile. Others charge different storage fees. A storage fee at South Lake Tahoe will be higher because real estate costs more in that location than in other places. It depends on the different business circumstances of each tow operator that influence the charges to remain profitable.

I appreciate that in these tough economic times, people want to mitigate their costs, regarding insurance companies, especially of wrecked cars. When a vehicle sits in a yard for 18 days, it does cost something for it to be there. This bill is an anticompetitive measure for a multitude of tow-car operators in Nevada. Sometimes, the auction fee is the only way a tow-car operator gets paid for that tow, and sometimes they lose money because the vehicle sold for less than the tow-car operator has in it. Saying you cannot have that car, that it cannot be in the storage area or you cannot defray the cost of the tow puts the tow-car operator at a disadvantage, especially when considering the investment they have made in the property.

I am not sure if you added up the space of all the tow-car companies in Reno that their storage would equal ten acres. That is a big parcel of land and expensive. In order to have a tow-car operation as described in S.B. 407, it would be a \$5 million investment. A tow-car operation, for the most part, is a small business. A tow-car costs around \$100,000. Then there is the cost of the land. This bill will hurt some of the small tow-car businesses in Nevada; that is why we oppose this bill.

CHUCK CALLAWAY, SERGEANT (Police Director, Las Vegas Metropolitan Police Department):

Today, I am also representing the Nevada Sheriffs' and Chiefs' Association and the Washoe County Sheriff's Office.

The Metro has concerns with S.B. 407, and opposes it. As stated, police officers have a multitude of duties at the scene of an accident. They have to tend to the injured, direct medical personnel in and out of the accident scene, direct traffic, locate and find witnesses, take statements, place flares on the roadway, draw diagrams, complete reports and more. This bill mandates an officer to do one more thing. Often at accident scenes, insurance information is not readily available. Sometimes there are multiple insurance cards in vehicles or insurance cards for another vehicle they own. I have seen instances where insurance cards go back ten years. A police officer would have to sift through that information, which may prove not to be accurate. People change insurance companies and do not always put the current card in the vehicle. This could result in the officer giving the wrong information to the tow-car operator, resulting in the vehicle being taken to an unauthorized location. It is important that vehicles be cleared off a roadway quickly, and officers do not often have the time to sift through paperwork for the insurance information. When a vehicle is not being impounded as evidence, then where that vehicle goes is between the tow company, the owner of that vehicle and the insurance company. I understand insurance companies are trying to save money, but this bill appears as an attempt to use the police as pawns to ensure that cars are taken to locations more beneficial to insurance companies.

The bill generates a liability concern. I talked with our legal counsel, and they concur. For example, an officer could mistakenly give the wrong insurance information or could not find the insurance information and the vehicle would be taken to the duty tow lot. It could sit there for 18 days before the insurance company acted. Later, it could be learned that the insurance information was in the car, but the officer did not see it. The owner of the vehicle could file a claim with the police department to be reimbursed for the tow fee because they felt the officer did not take the extra steps to look for the insurance information. We handle cases like that all the time. People file claims believing the officer did not go to the lengths necessary to notify them of their recovered vehicle. A car could stay at a tow lot for several days until the owner could be tracked down. Often, our agency absorbs that cost by paying the fee instead of the victim paying it. We see this bill as another avenue of liability in that area.

I appreciated Mr. Perkins' suggested amendments. The language would go a long way to address some of our concerns. To be completely comfortable with the bill, I would like the language to say, an officer "may" provide a tow-truck driver with insurance information when readily available, as opposed to "shall." The mandate of "shall" puts too much of a liability on us.

The misdemeanor section in the bill raises concerns. How would that be enforced? I do not foresee police officers, 18 days after a vehicle has been towed, tracking down the tow driver who took it to the wrong lot so the officer could issue a citation. In fact, a police officer in Nevada, with exception of charges like domestic violence and DUI, cannot cite or arrest for a misdemeanor that does not occur in his presence. In essence, that part of the bill would be unenforceable. If I understand the bill, it should only pertain to vehicles that are inoperable, involved in an accident or recovered from being stolen. The bill should not include, for example, the arrest of a suspect where the vehicle is towed but is not evidence. Should the police officer be required to go through that vehicle hunting for insurance information to adhere to the mandate when arresting someone? I would like to verify this bill would only apply to vehicles in accidents or recovered stolen vehicles.

VICE CHAIR SCHNEIDER:

How would this slow down a vehicular accident investigation? Is not one of the first things police do at an accident is ask for driver's license and insurance information?

SERGEANT CALLAWAY:

In most cases, that is what is done. However, there are cases where the driver is injured and transported from the scene before an officer arrives. There may be cases where the vehicle is upside down.

VICE CHAIR SCHNEIDER:

I am talking about the majority of vehicular accident cases. The majority of cases are rolling rear-enders. I drive by accidents all the time in Las Vegas, and most of the time the vehicle's front end is knocked off. The drivers and others are just standing around. It seems we are looking at ten percent or less of vehicular accident cases where there are unusual circumstances with the vehicle and the driver. Everybody wants the perfect world, but do not want to be responsible for it. I am concerned about changing the "shall" to "may" in S.B. 407. If those involved in the accident have the insurance information and

drivers' licenses in hand, then the officer should say it goes to the Allstate or Farmers' lot, or whoever it is. Use "may" and the officer who has been on a motorcycle for ten hours and is hot, tired and grumpy, could tell them to forget it. These are human beings we are dealing with. It seems there should be some rule to go by. This is enlightening to me. It seems that nobody wants responsibility. I am shocked with this whole thing. We have a bill and we are trying to do better for the public and, yes, for some companies. We are trying to do what is right for the public, and nobody wants to be responsible. I am sure Mr. Perkins would work with police on wording. It seems to me this is easy to work out.

SERGEANT CALLAWAY:

I agree with most of what you said. My answer is that most of the time when there are no injuries, the driver or owner of that vehicle is present to determine where the vehicle goes, so it is not an issue for law enforcement. In those cases where the driver has been transported, fled the scene or is unavailable, that is when we have a concern. Now extra time has to be taken to locate the insurance information and provide it to the tow-truck driver. Another factor is, often the duty tow will send out a flatbed truck because there are multiple vehicles at the scene. The tow driver will load all those vehicles on the one truck for transport. This requirement may delay getting all the vehicles off the roadway if multiple tows are needed because the vehicles have to go to different locations. Again, that is outside the realm of law enforcement duties, but it is a thought on the matter. Our primary concern is the liability aspect because the officer told the tow-truck driver to take the vehicle to one location and then we find out later it should have gone to another location. Now our agency is stuck reimbursing the cost of the tow fee because the officer was mandated by law to tell the tow-truck driver where to take the vehicle.

VICE CHAIR SCHNEIDER:

I think Mr. Perkins can work on language that would hold Metro harmless.

CHAIR BREEDEN:

You mentioned that sometimes if there are two or three cars involved in an accident, the tow truck would take all of them at once. Is it the current practice to take the vehicles to the same place?

SERGEANT CALLAWAY:

That question might be better for one of the tow companies. However, it is my understanding from working a lot of accidents in the field, that typically in cases where it is a serious multiple-vehicle accident with multiple people having been transported to a hospital, Metro will request a flatbed truck that can carry several vehicles, as opposed to a tow vehicle that can only tow one. It is my assumption the vehicles would all go to the duty lot, so the tow driver would only have to go to one location.

CHAIR BREEDEN:

With whom does Metro contract?

SERGEANT CALLAWAY:

Our current contracts are with Ewing Brothers and Quality Towing, and there may be a backup tow, but I am not sure of the name.

SHAWN YADON (Vice President, Corporate Affairs, Copart, Inc.):

I am opposed to S.B. 407. Copart, Inc. is a licensed salvage pool in Nevada. We have two active sites, one in Reno and the other on North Lamb Boulevard in Las Vegas. For cost savings and efficiencies and the best way to go, we suggested that salvage pools, which ultimately handle the vehicles, should, by default, be a vehicle storage lot. That was not well received by the bill's sponsor. From Copart's point of view, we are hurt by this type of legislation in that we see our vehicles going farther away from our operations. In Copart's prepared testimony ([Exhibit E](#)) is a suggested amendment to the bill.

THOMAS BAUMBACH (Milne Towing Services):

I am the new owner of Milne Towing Services in Sparks. As a new business owner, I am faced with a significant portion of my business, at least 20 percent, being taken away by unpredictable legislative action which seems unfriendly to a competitive business environment. There are many problems with S.B. 407 which I have outlined in my handout ([Exhibit F](#)). This bill is bad for business and bad for the consumer. It benefits a few and puts unfair requirements on small tow-car operators who are already regulated by the NTA.

CHAIR BREEDEN:

Are you considered a duty tow yard?

MR. BAUMBACH:
Yes.

CHAIR BREEDEN:
This means the same thing would apply if the NHP or the sheriff's office called you?

MR. BAUMBACH:
Yes.

VICE CHAIR SCHNEIDER:
How big is your yard? How many duty tow yards are there in Reno and Washoe County?

MR. BAUMBACH:
I have two acres. I am not sure, but there are 10 to 13 duty tow yards.

JOSEPH KIRSCH (Manager, Milne Tow & Transport):
I have been involved in the tow-car industry for over seven years. I concur with all the testimony opposing S.B. 407 given so far. I submitted a letter from Farmers Insurance Group ([Exhibit G](#)) in favor of the bill. In the letter, they say, "SB 407 will allow insurance companies to negotiate a contract to have our vehicles towed to our designated storage facility from accident scenes." To me, that implies they are going to choose their own tow companies at a contracted rate, requiring the police to call those contracted tow companies for these types of tows. It does not separate duty tows from insurance tows. It seems the intent is to have a contract in place to allow their own designated tow companies to transport these cars. That will, in turn, slow down the ability of the police to transport these vehicles quickly and clear highways as soon as possible. Who is going to get to tow for them? Is it really still going to be a duty tow? Or are the insurance companies going to try to beat the tow companies into competitive bidding for the business, so everybody's prices are driven down to where the tow companies can no longer support themselves? Additionally, by towing vehicles directly to these new, larger yards, tow companies would lose a portion of income that supports the business model. Right now, a tow is almost a break-even proposition. The price of towing has become so competitive that there is little money in it alone. Tow-car companies are supported primarily through the storage of vehicles. We would be affected by losing tows to the

contracted insurance company tows and lose storage income. Both would have an enormous impact on our industry.

I would argue that the insurance companies think S.B. 407 would decrease costs. This is not about replacing our storage facilities, which are NTA and law enforcement-approved facilities, but about replacing with another private entity that will charge a fee. This is not going to be free to insurance companies; it is just a bigger business with a bigger model that will charge the same fees for storage, lot visits and so on.

Another issue is in northern Nevada there are snow days where all tow companies are burdened with clearing highways as quickly and safely as possible. If these vehicles have to be towed greater distances to these larger lots, which will not be centralized to the city, that will add time when we are not available to tow and clear more accidents off highways. If insurance companies want to reduce their costs of storage to consumers, I suggest they get their estimates sooner, so they can get the cars out of our lots sooner, instead of taking 18 days. In past years, it was not uncommon for insurance companies to leave cars in storage yards for 30 to 50 days. Now it is more common for vehicles to be picked up the next day or soon after. Mr. Perkins said cars are left for an estimated 18 days in storage. It is uncommon for us to have cars over seven or eight days at the most. When vehicles are abandoned on insurance company lots, the lots are going to have the same lien fees. The lots are going to have to go through the same lien process we already have. They are going to have to auction the cars the same way we do, so making that a point for the bill does not change anything at all; those fees will still be in effect.

It is the practice of our business and most tow businesses that consumers get to visit their vehicles at no charge. Our company policy is not to charge for subsequent visits during business hours Monday through Friday because the owners forgot something. The yard visit fee we have is for after hours and weekend visits, where we have to provide personnel to come unlock the gate and take the owners to their vehicles. Mr. Perkins may have over-estimated the yard fee, as it is something we do not typically charge.

Abandoned vehicles and/or vehicles that only have liability insurance were also mentioned. If we are mandated to take those cars to this big insurance lot, I am not sure that is legal. They are abandoned vehicles, so where is the insurance

company liable or responsible for those cars? It is the owners' responsibility and at their peril if they choose to abandon their cars. I do not see this bill reducing insurance rates. It appears all this bill is doing is proposing a shift in who collects storage fees, because they are going to charge storage like we all do.

BILL BANTER, LIEUTENANT (Nevada Highway Patrol, Department of Safety):
Originally, we opposed S.B. 407, but after hearing Mr. Perkins' reading of the bill and the proposed amendments, we are more comfortable with the bill. We agree with the language proposed earlier by Mr. Perkins that "... law enforcement officers shall, when readily available" That language addresses the issue surrounding our inability to find documents at an accident scene involving a vehicle rollover when documents are scattered outside the vehicle. We would like to work with the bill's sponsor on proposed language changes as there are other accident circumstances. We fully recognize that for 80 percent to 90 percent of accidents, this would not be a problem. But there are accidents where we have to get those vehicles out of the roadway as quickly as possible because they are causing a chain of rear-end accidents. In situations like that, to take the time to go through documents in a vehicle to find the insurance information, then direct the tow driver where that vehicle is to be towed, could be problematic. This is a concern, because in those accident situations, it is likely the tow-car drivers are not going to get directions from the officer. If it is in statute, we have to provide that information, and it is more likely we would be liable for paying the expense of moving that vehicle from our duty tow to the insurance company's tow yard. We deal with disputes with tow companies and non-consent tows in conjunction with the Office of the Attorney General on a continual basis. This could be problematic, and we would like to work with the bill's sponsor to iron out our concerns.

DAVID WALKER (Walker Towing; Ewing Brothers):
I appreciate Mr. Perkins' testimony. It takes me way back to the first accident I worked with Mr. Perkins' father. I think Mr. Perkins may have been away from accidents a little too long to remember the circumstances of those accidents. In the 30 years I have been in the towing business, we have diligently tried clearing up the image of the towing business, building service to customers and being as professional as we possibly can. I think, over the last 30 years, we have made great strides.

When we are at a tow scene, and I was at one yesterday for an accident, our job is to remove the vehicle safely so the roadway can be opened. After

removing the vehicle, we inquire what the driver would like done with the vehicle. We tell drivers directly that we will take their vehicle anywhere they want, but they have to pay us at the time we take the vehicle. If they want the vehicle taken to a body shop, we take it there. If the body shop has an account with us, we put the tow fee on their charge, and if they do not, then the customer pays us at that time.

I disagree with Senator Schneider. Many times, even when it is a minor rear-ender where the airbag deploys, the customer is not present, because he or she has gone to the hospital, and 80 percent take the keys with them. He or she is not thinking about what is happening with the car. In cases like these, we automatically take the vehicle to our storage yard. When we talk to customers at accidents, we give them a business card, tell them the location of the yard, and tell them they can see their car anytime they want. Many times people's vehicles have possessions they are not thinking about at the moment. The most common items are medications, eyeglasses and perishable food, and they want access to them.

If the accident is at Railroad Pass, south of Henderson, and the insurance yard is in North Las Vegas, is that fair or does it save the customer money to take the car that far? Our operation is similar throughout, as is Mr. Ellis' operation. I have worked with Mr. Ellis for years and know he is a straightforward, upstanding businessman. I know he also takes care of those customers who are in accidents. If you see a tow truck, you have had a bad day, so we do our best to put the customer's fears to rest.

Then there is the cost. In Nevada, there are two types of tows, consent and non-consent. All non-consent tows are regulated by NTA, and we cannot charge more or less or give discounts; we must charge the same. Our tariff has to be approved by the NTA. It has been that way for almost 37 years. On the other hand, consent tows are when the customer wants their car towed. There may already be a duty tow at the accident, but the police will call another tow at the request of the customer. This is when we arrange with that customer what they want done with their vehicle. It is not up to the officer, it is up to the owner.

We are regulated on non-consent tows. On consent tows, we can set any price we want and take the vehicle anywhere the customer wants. It was stated that prices may go down due to competition for consent tows. I think they may go up because of limited choice and increased distance of tows. There will be no

savings to the insurance companies or to the consumer. If the person does not have full coverage or liability insurance, that is a can of worms. Who will pay the tow operator? Will they get paid when the vehicle is taken to the insurance yard? We are not going to bill the insurance company; they do not pay us now, so why would they pay us if we do not have the car?

The bill also states that authorization to tow the vehicle must be done by the legal or registered owner or the insurance company. For example, if my daughter gets in an accident, she cannot say where the car should go because I am the legal owner and not available. The insurer says the car goes to their lot, but I do not want my car there. I want to be able to choose whom I want to fix my car and to tow my car, and I want to have access to my car. Additionally, if I decide to hire an attorney because the accident was not my daughter's fault, now the car and evidence are long gone. They are not going to let us in to evaluate that car, so we can then sue them.

I have a real problem with S.B. 407 and the way it is written. It is an open can of worms. This problem has been taken to the NTA by Mr. Ellis and the insurance companies. The NTA has done extensive research, cited new companies that acted wrongly and tried to enforce the regulations. Stating that tow regulations cannot be regulated on consent tows appears to be an attempt to circumvent the federal government. Instead, I support finding another way of doing it. We are adamantly opposed to this bill.

CHAIR BREEDEN:

Did you mention that you are the owner of Walker Towing and Ewing Brothers?

MR. WALKER:

I am only representing Ewing Brothers and Walker Towing.

CHAIR BREEDEN:

If they are transported to a hospital, how do the owners of vehicles know where their cars have been towed?

MR. WALKER:

The police would have a record of the tow.

CHAIR BREEDEN:

Does the tow company have any responsibility for notifying the vehicle's owner? How is the notification done?

MR. WALKER:

Using the NTA guidelines, we go through what is called a lien process. If the tow company has not heard from the customer within a certain number of days, then they are notified by certified mail where their car is stored and what is involved to claim it.

CHAIR BREEDEN:

How long does the process take?

MR. WALKER:

It is five days.

CHAIR BREEDEN:

Do you not make contact with the vehicle's owner until it goes into the lien process?

MR. WALKER:

We try to contact people as soon as possible. We are a smaller operation than Metro, and our options are more limited. Most people realize the car is either at our lot or Mr. Ellis' lot.

CHAIR BREEDEN:

Did I understand correctly that you charge more for a consent tow than for a non-consent tow?

MR. WALKER:

We can charge more for a consent tow, but do not at this time. We do have the ability to raise the amount at any time.

CHAIR BREEDEN:

Does the NTA check your records?

MR. WALKER:

On all non-consent tows, yes. On consent tows, no.

DENNIS MILK (Tow Guys; Manager, Silver State Towing):

I own Tow Guys, Inc. and am the manager for Silver State Towing. Southern Nevada is the primary target of S.B. 407. If you are in an outlying area like Laughlin, where there are three or four tow trucks engaged in police work, and you are forced to come in to Las Vegas or Henderson with vehicles, that would leave Laughlin with no tow available. If there is an accident blocking the roadway in Laughlin, the police would have to wait hours before the roadway could be cleared of vehicles. That is not a safe situation.

When it was mentioned that the average vehicle holding was around 18 days, I think that number came from a prior hearing on a bill where Farmers Insurance Group testified. My answer is that if it takes Farmers 18 days to process a vehicle, then they need to hire more people to get the job done. There is no reason for a car to sit in a yard for more than three days or four days.

Regarding notification on where a vehicle is located, Metro has a monthly rotation of tow companies as does Henderson. On even months, it is one tow company, and on odd months, it is the other tow company. People wanting to find their car can call 311 for the exact location. I am concerned that this bill creates a consent tow, because it has the owner or the agent of the owner designating where the car goes. That makes it a consent tow which is not regulated. It seems the insurance industry has not fully thought through this bill. A consent tow gives us the right to charge whatever rate we want, and by federal law, the state cannot regulate the rate.

Mr. Perkins stated that Mr. Ellis was not ready to meet the vehicle storage lot requirements in the bill. I can tell you Mr. Ellis is well on his way to having his yard ready to meet the bill's requirements. This would make him a monopoly. There is enough money in the vehicle storage yard business that eventually there will be some competition. In order to have ten acres in the Las Vegas area, a vehicle storage lot business would have to go quite a way out of town. Also, any tow-car service on the police rotation schedule would not be required to haul a vehicle that would take them out of their service area. This situation would create a demand for more tow cars and drivers that would increase the cost of a tow, and it would be passed on to the consumer. It appears what would happen is a subsidy for police tows, because those rates are regulated. The consent rates would have to increase to make up for the non-consent cost loss. It appears that what is happening is shifting the burden away from the

insurance companies to the consumers for the consent tows. For all those reasons, I am opposed to S.B. 407.

JOE BRAVERMAN (United Road Towing; Quality Towing):

I have prepared testimony ([Exhibit H](#)) to which I will add. I have been in the towing business off and on for over 40 years. I started as a tow-truck operator. In the United States Marine Corps, I spent a number of years as a heavy wrecker operator. After retiring from the Marines, a friend made an offer I could not refuse to become the general manager of E&R Towing in the Chicago area. I also provided management services for United Road Towing, a national company I purchased in 1998. I assisted in privatizing the towing industry in Chicago. We move around 150,000 cars a year. As a national company, United Road Towing has 1,200 employees and 750 tow vehicles. We provide services to many large and small municipalities with dispatching, towing, impounding, storage, redeeming and disposal of vehicles. We also do motor assist and disaster relief in such areas as Hurricane Katrina in New Orleans, Louisiana; ice storms in Dallas, Texas; and floods in Nashville, Tennessee. Locally, we have three companies working under one umbrella; Quality Towing, which has SST Towing and Sunrise Towing. We provide services to Metro, North Las Vegas, NHP, Federal Bureau of Investigation, customs and others.

I have been across the United States attending various hearings on towing and towing regulations. Usually the bills I see are customer-friendly in protecting the customer, protecting safety and being equitable. Senate Bill 407 does none of this. Our primary function is to get to the scene of an accident as quickly as possible. Our purpose is traffic instant management which, over the last several years, is the biggest thing from Washington, D.C., on down. Nevada is part of that, as are we. In some areas, such as Dallas, Texas, we run the traffic instant-management program. That means that we are among the first responders at an accident scene. The officers, ambulance and fire department have a lot to do, and then there is the tow operator. The tow operator's job is to recover the vehicle, whether that involves flipping the vehicle back over or retrieving it from a ravine. The idea is to get the vehicle loaded, clean up the area and get away from the area as quickly as possible, because we need to stop gawkers, reduce secondary accidents and get the traffic moving again. The officers may not have the time to determine where these vehicles should go. The tow-truck operator wants to get in and out as the equipment is expensive. Some tow-truck equipment costs \$100,000, and a rotator vehicle costs \$750,000. Part of business is to get the most out of the equipment. Waiting for

someone to tell the tow driver where the vehicle needs to go is not the best use of time. If a tow-truck operator does not get the vehicle to the right location and could be charged with a misdemeanor, he is not going to be too quick to move a vehicle until he knows exactly where it is to go. This will slow down the process and affect safety in the area.

Another issue is the rights of the consumer. Just because people have accidents does not mean they will report them to their insurance companies. The consumer may have a \$1,000 deductible and thinks the repair will be less; the insurance company is not going to do anything because it is the consumer's expense. If the consumer has liability only, the insurance company has no influence on what to do with the car. If the other party is at fault, a private citizen can work out the subrogations with the other party or insurance company without getting the citizen's own insurance company involved. This bill would take away those rights of the individual because the insurance company wants to take the vehicle somewhere else. Also, an insurance card shows the vehicle owner's name and insurance company but does not show the kind of vehicle coverage. By taking a vehicle to a central yard, there will be additional expenses, and possibly additional costs for additional equipment to provide the services. As a tow business, we look at the overall cost based on the volume of business to set rates allowing us to make a reasonable profit. We have six locations in the Las Vegas area, so we can take a vehicle as directly, quickly and cheaply as possible to the closest yard to make it convenient for the owner of the vehicle to get to it, as well as for the insurance company. By taking a vehicle to a larger yard, we will lose some of that business. We have long-term contracts and leases. We have invested millions of dollars in property, ground cover, landscaping, etc. That 20 percent makes a difference between success and failure, even for a large business. All this and other things will cost the consumer more somewhere along the line. Nowhere else in the country have I heard of a bill like this one. It is a terrible bill overall. It appeases the few and not the masses, and S.B. 407 is the wrong thing to do.

CATHERINE KRAUSE (Chief Information Technology Manager, Records and Technology Division, Department of Public Safety):
I have provided written testimony ([Exhibit I](#)) to which I will add. Should S.B. 407 pass in its current form, to reduce the liability to the Department of Public Safety (DPS), the DPS feels a real-time connection to the database of a designated tow destination for each insurance company would be required to support the NHP and other statewide law enforcement agencies. An amendment

has been proposed modifying law enforcement involvement in this matter, and DPS has requested to be part of that process. If amendments go forward, it might be possible to withdraw our fiscal note ([Exhibit J](#)). However, as a DPS, we will need to review the final amendment to determine if that will be the case.

MARK ANTHONY (TONY) ALMARAZ, COLONEL (Chief, Nevada Highway Patrol, Department of Public Safety):

I would like to address Senator Breeden's questions about how people are notified as to where their vehicles are located. In most cases where there has been a traffic accident and people are transported to a hospital, we have forms that are given to the victims or families to show where their vehicle has been towed. We are willing to work with Mr. Perkins on the language. I do not want to get our people involved with some of these issues, as they can be complex. There are the torts that are unknown in an agency such as the NHP. There is a database that is an unknown area for which we would have the responsibility for when tows are done under the circumstances in the bill. There is also the component of our dispatch, because technically, an officer in a non-consensual situation would not be making that call; it would be made through the NHP dispatch center. The DPS is unique in that we do not have call takers. When a request comes in to make a call to an insurance company to find out where a vehicle should go, it is literally tying up a dispatcher to make that call. If you have ever been on the phone with an insurance company, then you know it can take a little time to get the needed information. Sometimes, it could take up to 20 minutes to find out where that vehicle should go. As those minutes tick by, there are other calls coming into the center that are mostly emergencies that will take the dispatcher away from responding to where to tow a vehicle.

MARK FIORENTINO (Greater Nevada Auto Auctions):

We are a subsidiary of Cox Communications, Inc. The auction operations include storage, salvage and auction of vehicles. The company and its affiliates have two auction facilities in Nevada, one in North Las Vegas, the other in the outskirts of Las Vegas. They employ over 600 people and are substantial contributors of property and sales taxes.

Our focus is primarily on section 1, subsections 4 and 5 of S.B. 407, which cover the requirements to be a qualified storage yard. Greater Nevada Auto Auctions has invested a substantial amount of time, energy and money in developing and permitting storage yards at their two facilities. These yards

comply with most of the concepts embodied in section 1, subsections 4 and 5. They have the storage capacity and have made substantial capital investment in them. They meet all the local codes. The yards are secured by perimeter fences and protected by 24-hour security measures, meaning they meet the requirements in the bill. If you pass the bill as is, the storage yards could not be utilized. The language is too specific and too narrow. If the Committee processes the bill to achieve the goals of more competition, we would ask that you give us an opportunity to solve the concern of creating security for the vehicles. This needs to be done in a way so companies like ours which have already made substantial investments in our yards can comply, especially if the goal is to create a competitive market for all.

SAMUEL MCMULLEN (Copart, Inc.):

I also represent a couple of insurance companies which I will have to inform about some of the impacts of S.B. 407 on their industry, after hearing how it works. The comment was made that the individual at the scene of the accident can direct where the vehicle goes. I am sure, in common law, it is the individual's property and can be sent wherever the individual wants, but I could not find a reference. The testimony indicated a system would have to be developed physically and electronically and would also need attention to the issue of the owners of the cars, assuming they are cognizant of what is happening and can communicate. The individuals may have to be educated about the issues and choices with their cars. From an insurance company point of view, the bill changes the existing situation with the understanding of the insured and insurer in terms of the ability to direct the car's destination. Normally, it might be assumed insurance companies could direct the vehicle to wherever they want, but I am not sure that is the truth and would check that out with my insurance clients. It appears there is a disclosure issue and a large indemnification issue, not just for the owner of the vehicle, but for the police officer and other people involved at the scene of the accident. I appreciate that it is assumed everybody will be bad actors, but the penalty seems stiff and I do not know if the misdemeanor is appropriate. There should be some sort of administrative remedy at a minimum.

On page 2, line 36, I read that Metro would be the agency to impose the requirements. If it is correct that Metro sets the requirements for the whole county, that might be fine; if not, then it says Metro would have to take over for Henderson and North Las Vegas in terms of setting those requirements. I would like to add, if you process S.B. 407, the vehicle storage lot should not

refer vehicles to lots under which they have common ownership, economic interest or the principals have any ownership or interest directly or indirectly with that salvage pool, wrecker or dealer. That would also address concerns expressed by others.

SENATOR LEE:

Mr. Perkins, from what I am hearing, there must be room for compromise. I am asking you to listen to the amendments and ideas. If you would like to use my office to meet with people, I will make it available.

MR. PERKINS:

Thank you for your offer. It appears there are things to be fixed in the bill if we find a middle ground. After having listened to other testimony, it seems there is no way the bill can be processed in its current form. For the record, there were times during the testimony that I wondered which bill we were hearing. A lot of the testimony got far afield of the bill. There are areas in the bill that suggest owners and insurance companies have basic rights that could not be usurped.

SENATOR LEE:

We will close the hearing on S.B. 407 and open the hearing on S.B. 441.

SENATE BILL 441: Revises provisions governing the processing at self-service terminals or kiosks of certain transactions with the Department of Motor Vehicles. (BDR 43-1184)

BRUCE BRESLOW (Director, Department of Motor Vehicles):

The Department of Motor Vehicles (DMV) has been trying to find ways to improve customer service at no additional expense to the State. We are trying to find ways to be more user friendly with our customers. The biggest innovation is the expansion of a program we have had for a while, the kiosk program at the DMV, but the program was misdirected. The DMV has 26 kiosks, 17 are in DMV offices. The only way the public would know the kiosks are at DMV is if somebody pulled someone out of line at a DMV office to let them know they could use the kiosk instead. Nine kiosks are in other locations. Recently, three of the nine were added in Sparks at a Scolari's Food and Drug Company store open 24 hours a day, 7 days a week; in Gardnerville at a grocery store and in the city hall of Fernley. We cannot add any more, and frankly, do not want to put any more kiosks in DMV offices.

I want to bring the DMV into neighborhoods where people live to keep them from driving 20 to 40 miles into congested urban corridors, find parking and sometimes wait at DMV for an hour. By moving kiosks into neighborhoods, universities and where people work, it will be more convenient to conduct business with the DMV. I am restricted from doing that by the 22 percent cap in the Highway Fund by which DMV is funded. This bill is a request to change the funding source of the kiosk program from the Highway Fund to self-funded. This would save a lot of money in the Highway Fund. The transaction cost to a customer who chooses to use the kiosks, would be the same amount the State is currently paying out of the Highway Fund. It would also allow for adding more services we cannot currently provide, because if we add another transaction with a fee of one dollar, adding up the multiple transactions, that would also be affected by the cap in the Highway Fund. The kiosks are ready to go for driver's license renewals, but we cannot add that feature yet.

Through S.B. 441, a different funding stream would be created for the kiosk program, making it self-funded. This approach is endorsed by the Governor. The money from the Highway Fund used to pay for the kiosks has been reduced in anticipation of going into a self-funded program. If S.B. 441 does not pass, we would be asking for \$5.2 million over the biennium. We already have a lot of people using the kiosks. For instance, Scolari's is putting a flyer in every customer's grocery bag promoting the DMV kiosk program. They created little feet on the floor with wording saying, "This way to DMV." There are partner locations where we would like to roll out up to 80 new units statewide, into neighborhoods, schools and where the people are to reduce the number of people at DMV offices and reduce the wait time. I spoke with Senator Breeden who said if the bill passes, it should be directed to the Senate Committee on Finance because it is a budget bill.

SENATOR LEE:

You mentioned \$1. Is this a credit card fee or a transaction fee?

MR. BRESLOW:

I used a dollar as an example. Right now, there are three transactions someone can do on a kiosk. The vendor pays for the kiosks at \$30,000 each. The vendor services and repairs the kiosks under a certain time limit, resupplies the paper and changes the ink. To recoup the costs, the vendor has transaction fees. The driver's record transaction fee is \$1. People can look at their insurance records and pay a fine for insurance for the \$1 fee. The registration renewal fee of

\$4.99 is more expensive because there is a hot printer inside the machine with a roll of unique stickers which prints out the registration and the sticker at the kiosk.

The Purchasing Division, Department of Administration, is about to send out a request for proposal (RFP) for kiosks. The industry tells us the kiosk fee should be much reduced because of the next generation of machines, the number of machines and contracts with extensions up to ten years; four years with three two-year extensions. It is the potential for a ten-year contract allowing the vendor to amortize their cost that would bring down the transaction fees. This bill would call for us to set the kiosk fees in regulations based on the RFPs submitted.

SENATOR LEE:

I know there are a lot of businesses that want to put the DMV kiosk on their sites. This appears as a small private/public partnership. If these kiosks become effective, is there a way the State could share in the profits from the fees? Will use of kiosks reduce the number of employees who work for DMV? We are going to get asked these questions, which is why I am asking you.

MR. BRESLOW:

I was approached by the public employee unions who thought kiosks might be a threat. After explaining that this is a way to get the two-hour wait at the Sahara Avenue DMV office in Las Vegas down to one hour, that S.B. 441 is not a job-killing bill but a customer-convenience bill, they seemed all right with that. I also reminded them that it can take an hour to drive to a DMV location, then wait an hour at the DMV office which makes it a hassle for customers. In the long run, once permission is given, there could be 80 kiosks located around the State, some in rural areas, some in neighborhoods and the universities. In the future, I expect other agencies and departments to add on when the contract comes up for renewal. I have already heard from the Department of Wildlife, the DPS and others about issuing fishing, hunting and other licenses. It is looking more like the way government will be going for more customer convenience.

Nevada's master contract does not allow the State to recoup the cost of credit card fees, as other states do. New Mexico charges \$1.25 for a credit card transaction. Nevada pays between \$7 million and \$9 million annually in credit card fees. If there could be some way for the State to recoup that cost from the

user in the future it would be a big help. Right now it would be a pass-through of current transaction fees charged by the vendor.

ALISA NAVE-WORTH (Intellectual Technology, Inc.):
Our client is the vendor for the DMV kiosks. One of our kiosks was on the first floor of this building as a demonstration. We are in support of S.B. 441. This is an opportunity to streamline the process, increase the experience for the consumer and decrease the cost to the State.

SENATOR LEE:

We will close the hearing on S.B. 441 and open the hearing on S.B. 483.

[SENATE BILL 483](#): Authorizes the Department of Motor Vehicles to enter into certain agreements relating to advertising. (BDR 43-1185)

MR. BRESLOW:

The DMV offices are rather boring. A customer's entertainment while waiting at a DMV office is a flashing number board. This bill would allow us to issue an RFP for businesses to bid on setting up flat-screen televisions (TV) in our urban offices. There are companies that will provide the TVs and some advertising. Typically, the government would use 70 percent of the screen for public service and safety messages while also displaying the waiting time and customer numbers. Other states that do this say the companies that provide this service retain 30 percent to 35 percent of the content for advertising, which helps pay the vendor for providing the service and equipment.

The bill written as a bill draft request came out differently than submitted. It came out in the same form as the bill from two years ago, which was not successful. To counter this, we have submitted a proposed amendment to S.B. 483 ([Exhibit K](#)) striking most of the issues the Legislative Counsel Bureau had with the previous session bill.

TOM JACOBS (Public Information Officer, Department of Motor Vehicles):

The prior session bill was more extensive, including advertising, handbooks, Website and mailings. That was an attempt to make our mailings and books self-funding. That bill did not meet with a lot of approval. The digital signage part of that bill was a bell and whistle because of its entertainment value along with the educational component. Advertising for the digital signage is there

because we can get the whole system at no cost to the State, if we can accept advertising. This bill is stripped down to digital signage only.

SENATOR LEE:

Are these going to be all public service announcements or can Coca Cola also advertise?

MR. BRESLOW:

It is my understanding that the typical signage program in other states through the American Association of Motor Vehicle Administrators program is about 70 percent public service announcements and 30 percent are commercials. We would like to have the authority to review the content of commercials for guidelines. I will tell you that we have already heard from the American Civil Liberties Union (ACLU) about not having any guidelines on advertising.

SENATOR MCGINNESS:

I am not sure you have an option as a state agency. Would you not have to accept whatever is given to you?

MR. BRESLOW:

It is our intent, through regulations, to set policy. The companies that work the DMVs around the country allow the DMVs to review content on a monthly basis. If something is deemed to be in poor taste, the DMV would say something.

SENATOR MCGINNESS:

Would the ACLU not say you have to provide everyone access?

MR. BRESLOW:

The ACLU would prefer that everyone have access to advertising. The DMV would prefer there are some filters. This is done in other states and there are processes. We would not have to invent content of commercials regulations, as there are models in other states. This bill is just for the right to issue an RFP to see if anybody is interested. The provider would want to redeem the cost of equipment and make a profit. Anything revenue-sharing would be developed in an RFP contract for support of public information to get the word out that we have kiosks.

SENATOR MANENDO:

Where would the revenue generated from this program go?

MR. BRESLOW:

According to S.B. 483, we are asking for the authority to spend money, not for the actual money. A company would install the equipment, work with us on content, sell advertisements and maintain the systems, and the DMV would provide the messages to be run on the TVs. After the company recoups its costs, it would split its profit, with a certain percentage going to them and a certain percentage going to DMV. The money collected by the DMV must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

SENATOR MANENDO:

I have always been a proponent of public/private partnerships. In the 1990s, a bill was created to allow school districts to advertise on the sides of their school buses. A list was created of things not allowed on the buses because of the impact on children. The list covered gaming, alcohol, tobacco, gentlemen's clubs, etc., and that has not been challenged to my knowledge. This list already exists in statute and could be extracted and used as a model. I would be comfortable with the DMV making the content decisions. I would not want families waiting at the DMV and seeing an ad for a gentlemen's club; that would be inappropriate. I do not think the ACLU would challenge such an ad, as so far they have not. I know similar lists have worked in other states, and the ads have brought in a lot of revenue for school districts. In these economic times, we need to do everything we can to partner. I know there are people right now who are anxious to advertise in the DMVs and are willing to work with us. This is a wonderful opportunity to raise revenue while showing the public we are serious about the kiosk program. I am saddened that more school districts have not pursued ads on their buses. I am convinced the DMV will not be like the school districts and drag their feet. Many school districts do advertise at their stadiums and on their scoreboards to generate revenue.

SENATOR LEE:

I think the commercial language issue has been handled by the Regional Transportation Commission.

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We will close the hearing on S.B. 483 and adjourn the Senate Committee on Transportation at 6:04 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. 407	C	Richard Perkins	Traffic Accident Report form
S.B. 407	D	John Griffin	Proposed Amendment to SB 407
S.B. 407	E	Shawn Yadon	Statement of Copart, Inc.
S.B. 407	F	Thomas Baumbach	Written Testimony
S.B. 407	G	Joseph Kirsch	Farmers Insurance Group letter
S.B. 407	H	Joseph Braverman	Written Testimony
S.B. 407	I	Catherine Kraus	Written Testimony
S.B. 407	J	Catherine Kraus	Fiscal Note
S.B. 483	K	Bruce Breslow	Proposed Amendment