

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session  
March 21, 2013**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 3:22 p.m. on Thursday, March 21, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Richard Carrillo, Chairman  
Assemblyman Joseph M. Hogan, Vice Chairman  
Assemblyman Paul Anderson  
Assemblyman David P. Bobzien  
Assemblywoman Maggie Carlton  
Assemblywoman Lucy Flores  
Assemblyman John Hambrick  
Assemblyman Cresent Hardy  
Assemblyman James W. Healey  
Assemblywoman Ellen B. Spiegel  
Assemblyman Michael Sprinkle  
Assemblywoman Heidi Swank  
Assemblyman Jim Wheeler  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Steven Brooks (excused)



**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Vance Hughey, Committee Policy Analyst  
Jacque Lethbridge, Committee Secretary  
Sharon McCallen, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Kyle Davis, representing the Nevada Conservation League and Education Fund  
Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company  
Sean McDonald, Administrator, Central Services and Records Division, Department of Motor Vehicles  
Ann Yukish-Lee, Services Manager II, Central Services, Alternate Service, Department of Motor Vehicles  
Lynn Chapman, representing the Nevada Families Association  
Fred Harrell, Chair, Advisory Board on Motorcycle Safety, Office of Traffic Safety, Department of Public Safety  
Eric Spratley, representing Washoe County Sheriff's Office  
Robert Roshak, representing the Nevada Sheriffs' and Chiefs' Association  
Victor Moss, President, D&M Cycle School, Las Vegas, Nevada  
James Kinsey, Private Citizen, Las Vegas, Nevada

**Chairman Carrillo:**

[Committee protocol and rules were explained. Chairman Carrillo read Rule No. 54, Testimony, Witnesses and Exhibits, from the "Excerpts of the Assembly Standing Rules, 77th Session (2013)."] We will go to the work session first. Vance Hughey, Committee Policy Analyst, will walk us through the work session document.

**Assembly Bill 145: Provides for retrofitting of roads and streets in consideration of different types of users. (BDR 43-662)**

**Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau:**

Assembly Bill 145 allows a regional transportation commission in Clark and Washoe Counties, and a board of county highway commissioners in all other counties, to adopt a policy for a Complete Streets program and to then establish a Complete Streets fund consisting of distributions from the Department of Motor Vehicles (DMV) ([Exhibit C](#)). The bill establishes a mechanism by which a person may, upon initial registration or renewal of registration of a vehicle with DMV, voluntarily contribute \$2 toward funding the Complete Streets program in the county in which the vehicle is registered.

Kyle Davis, Nevada Conservation League, offered the proposed amendment that is included in your work session document ([Exhibit C](#)). The proposed amendment makes the following changes:

- Sections 5 and 9 are revised to clarify the ability of a commission to carry out projects as part of a Complete Streets program is not dependent solely upon receipt of money generated by this bill.
- New wording is proposed for Sections 5 and 9 to clarify that money generated by this bill may be used for the costs of the operation of public transit systems.
- Subsection 3 of section 8 is deleted. During the hearing on this bill, Michael Hillerby, representing the Regional Transportation Commission (RTC) of Washoe County, testified that this provision was not necessary since other provisions of law already prohibit the letting of contracts if sufficient funding is not available.
- Subsection 4 of section 8 is revised to ensure that in counties that have RTCs, the money generated by this bill would be administered by the RTCs. In other counties, the boards of county highway commissioners will administer the Complete Streets funds.

Legislative staff has been advised by Mr. Davis that the proposed amendment has been vetted by the interested parties and that they have agreed to the proposed amendment language as submitted.

**Assemblyman Paul Anderson:**

I am a proponent of Complete Streets and look forward to the opportunity when some of these projects can move forward. I am generally in favor of this bill. My concern is the language in sections 5 and 9 that clarify the use of these funds. Typically, if I were asked to donate money or contribute \$2 to a Complete Streets project, I would assume that it would go towards bicycle paths, sidewalks, et cetera. I am concerned about the consumer side of this as a potential bait and switch. Is collecting \$2 and buying buses or operating the transit system outside of what a consumer may view as a Complete Streets project?

ASSEMBLYMAN PAUL ANDERSON MOVED TO DO PASS AND AMEND EXCLUDING THE LANGUAGE IN SECTIONS 5 AND 9 THAT EXCLUDES THE COST OF OPERATION AND PUBLIC TRANSIT SYSTEM.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

**Chairman Carrillo:**

Is there any discussion on the motion?

**Assemblywoman Carlton:**

I discussed those same concerns with a proponent of the amendment and I do not want the money being spent on buses. It was shared with me that the money could be spent more along the lines of a light rail system, not a subway. Near National Harbor near Washington, D.C., you have light rail that travels near their main tourist attractions. Although it is mass transit, it is my understanding this has a lighter footprint. I could picture this as being similar to the streetcars in San Francisco. Unfortunately, I will not be able to support this particular motion.

**Assemblyman Bobzien:**

I want to make sure we are completely transparent about what the funds are to be used for. I look forward to supporting such a program in my community in the future. Complete Streets means complete possibilities for transportation. I would prefer supporting the amendment as submitted rather than Assemblyman Anderson's motion.

**Assemblyman Healey:**

I have a question for Mr. Kyle Davis to clarify the amendment. In section 9, subsection 3, I see the last part states, "For the purpose of this section, 'Complete Streets program' includes the cost of the operation of public transit systems on roadways as part of a Complete Streets program." This has come

up before in terms of the buses and we have had some discussion. Is it the intention of this language to cover that? If the roadway is part of the Complete Streets program and there is transportation as a component of the Complete Streets program, would the money be used for only that part of it? It would not be used for rehabbing buses on another side of town that does not have a Complete Streets program?

**Kyle Davis, representing the Nevada Conservation League and Education Fund:**

You are correct. We heard the concerns of Assemblymen Anderson and Carlton and we do not want this funding to be used for purchasing of buses or equipment. This money could only be used for the operation of public transit systems if they are a part of that Complete Streets system. The money would not be used on operations outside of something that is not part of a Complete Streets program. The RTC would only be able to use funds in a section where it is actually a Complete Streets program. Furthermore, the funds would only be used for operations. The example I gave to Assemblywoman Carlton says if a light rail system were a part of that Complete Streets function on that street, RTC would be able to use funding for some of the maintenance on that light rail. They would not be able to use it to buy trains or buses. Based on concerns that we heard when the bill was originally presented to the Committee, as well as concerns brought up today, that is what we were trying to do. The point of this is not to fund large equipment purchases; it is to help implement the full Complete Streets program.

**Assemblyman Healey:**

Thank you for the clarification. I wanted to make sure I was reading it correctly because that was really the only part of the bill that concerned me from the beginning—were we going to do a bait and switch as Assemblyman Anderson mentioned? With that clarification, I would hate to see this fail based on the amendment that was made striking the language. For the record I am in support of the bill with the amendment, based on the clarification you provided, ensuring the money is not used for purchasing or maintenance of buses that have nothing to do with these Complete Streets programs.

**Kyle Davis:**

We share your concerns completely. Based on the working group that we put together to draft the language, that was what we were trying to get at. If Legislative Counsel thinks there is a better way to get at that intent, we are open to their recommendation.

**Assemblywoman Woodbury:**

Could we make it more specific, to ease some of our concerns, that it is specific for transit if it has to do with Complete Streets?

**Assemblyman Paul Anderson:**

Can we go on record to make sure we are clarifying that the intent and purpose of the operating costs are to help support the Complete Streets program? In the original testimony, there was talk about paratransit, buses, and other functions, which, to me, went outside the scope of this. Based on that, if you will explain to us once more that this is meant to be part of the Complete Streets program.

**Kyle Davis:**

We should make that very clear because during the original hearing there was discussion about whether this could be used for purchases of things like buses. We do want to make it clear that, based on the feedback we got from this Committee as well as discussions we had within the group, it was determined that nobody wanted purchasing buses, et cetera, to be an allowable use of this funding. Funding generated under this program could be used to fund some of the operations of public transit programs if those public transit programs are a part of the Complete Streets program. It would not be funding for areas that are outside of a Complete Streets program and it would not be used to buy large equipment such as buses or trains.

**Assemblyman Paul Anderson:**

With that clarification, I would like to change my motion.

ASSEMBLYMAN PAUL ANDERSON MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 145.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT.)

**Chairman Carrillo:**

The floor assignment will be given to Assemblyman Paul Anderson. We will close the work session on A.B. 145.

**Assembly Bill 151: Provides for the establishment of goals for the participation of disadvantaged business enterprises and local emerging small businesses in contracts with the Department of Transportation. (BDR 35-776)**

**Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau:**

Assembly Bill 151 requires that the Department of Transportation establish goals for the participation of disadvantaged business enterprises and local emerging small business in certain contracts that do not receive federal

funding ([Exhibit D](#)). These contracts include highway construction, reconstruction, improvements, and maintenance on projects estimated to cost \$250,000 or more and architectural, engineering, and planning services. The goals must be consistent with the goals required for similar projects that receive federal funding. There were no proposed amendments received by legislative staff.

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS  
ASSEMBLY BILL 151.

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT.)

**Chairman Carrillo:**

The floor assignment will be given to Assemblywoman Bustamante Adams. We will close the work session on A.B. 151. We will take a one-minute recess while I hand the Committee over to Vice Chairman Hogan. [The Committee recessed at 3:41 p.m.] [The Committee reconvened at 3:42 p.m.]

**Vice Chairman Hogan:**

We will open the hearing on Assembly Bill 165.

**Assembly Bill 165:** Limits the purposes for which the Director of the Department of Motor Vehicles is allowed to release certain personal information. (BDR 43-995)

**Assemblyman Richard Carrillo, Clark County Assembly District No. 18:**

Existing law provides that the Department of Motor Vehicles (DMV) can release personal information relating to a driver's license, identification card, or title or registration of a vehicle for use in the bulk distribution of surveys, marketing material, or solicitations. Assembly Bill 165 seeks to limit the release of this information. Many of the extended warranty solicitations make it appear that there currently is a warranty and if the owner of the vehicle does not respond they will lose an opportunity to extend the warranty.

During the interim, I had a constituent contact me who was receiving offers of "extended warranties" for their personal vehicles as well as other solicitations relating to these vehicles. In addition, I would like to add that I purchased a 2006 Chevrolet Express van known by my colleagues as the "creepy van" in October of 2011 and it was not long after that I started receiving the extended warranty offers. I would normally throw these mail pieces out, but the more I thought about it the more I started thinking, "What if I was an elderly individual

who did not have family around and I called the toll-free number on the extended warranty offer?"

Because I never had an opportunity to call one of these toll-free numbers, I had my Committee Manager call and see what the process was and what it would cost. After some scare tactics and high-pressure sales, she was told it would have cost me \$3,420, but I had to do it today. If I was a senior and was worried, I might think I had to get this warranty. They said I could make payments so I would not have to pay \$3,420 all at once. I could make payments over a period to keep my vehicle under extended warranty. One of my constituents bought a used vehicle, never had a warranty on the vehicle, and received these solicitations on a regular basis, sometimes two or three a month. I have received these warranty "offers" and if you look on Nevada Electronic Legislative Information System (NELIS) you will see a few of the many warranties that I received ([Exhibit E](#)). If you look at those documents, they look official and one of them says "Motor Vehicle Division." If I were to look at that, I would wonder where it was coming from. Is it coming from DMV? There are 1-800 numbers if you want to call and see how you are treated. Sales from the time you get on the phone until the time you hang up on them are high pressure. My Committee Manager hung up because she could not handle it anymore. I can imagine being a little old lady or somebody that would be worried about their vehicle breaking down.

An individual just recently brought this to my attention. They bought the extended warranty and it was not through the manufacturer, it was an outside company. The warranty cost him \$2,000. The company went out of business and they had no recourse to get their money back. A class action lawsuit was filed, but they never received one penny back in compensation or settlement.

Receiving recall information for an owned or leased vehicle from the manufacturer would not be affected by this bill. The bill seeks only to limit the amount of information that can be sold to third parties for the purpose of marketing and solicitations.

There is a friendly amendment that Mike Wells with R. L. Polk® is bringing forth. I would like him to go over it.

**Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company:**

R. L. Polk® & Company ([Exhibit F](#) and [Exhibit G](#)), acquires registration and title data for all states within the United States and Canadian jurisdictions. There are 14 federally approved Drivers Privacy Protection Act (DPPA)



(Public Law 103-322) uses for this information. In Nevada, we use the information in most of those 14 ways. We do not provide market research in terms of surveys nor do we provide private polls. We obtain this information to produce Carfax vehicle history reports ([Exhibit H](#)). Carfax is a wholly owned subsidiary of R. L. Polk® & Company. We use this information to provide recall and craft advisories for all citizens across the United States. If your vehicle is recalled, we probably had our hands in it to find the vehicle owner. We use the information for statistics as well as for the automotive industry, parts planning, distribution, and things of that nature.

We worked with Assemblyman Carrillo on a friendly amendment ([Exhibit I](#)) to find an amicable solution. The friendly amendment would not allow DMV to provide information to companies whose primary focus is to market extended warranties.

**Assemblyman Sprinkle:**

Does this information come from only the DMV? Do the dealers or others that might have this information release it to these other private entities?

**Michael Wells:**

This information is available through dealerships, point of sale, and point of service. Many times, this is the source of that information. We have done work to track this down to find what we call the bad actors or bad guys who are getting access to information and then using scare tactics to sell their services. In answer to your question, there are other places to obtain this information. This bill will help mitigate the state's involvement in that part of the process. I will continue to work with Assemblyman Carrillo to ensure we find other ways to mitigate what is going on in the market so this does not continue.

**Assemblyman Wheeler:**

Are there some reputable warranty companies? Some are sold through dealerships, et cetera. Are we picking on one industry? Are there other industries that use this information that are reputable?

**Michael Wells:**

Your point is valid. There are companies that are doing things the right way. It is hard to determine which of these falls into which category. I represent 20 states and as I chase some of these across the United States for my company, I am struggling with the issue that some of these companies are offering an alternative for some consumers to partake in if they choose. It is not necessarily a bad thing, but in the case of high-pressure sales tactics, it does seem nefarious and there should be a better way to control that.

**Assemblyman Wheeler:**

Should it be the state's duty to control that or should the Better Business Bureau be involved?

**Michael Wells:**

The state's involvement is to make sure their data is not the data being used for that type of activity.

**Assemblywoman Spiegel:**

Can you clarify that it is limited to that? I like getting the coupons for smog tests, so those would not be precluded.

**Assemblyman Carrillo:**

The focus of A. B. 165 is to prevent the extended warranty issue. A lot of times when you go for a smog test, they create their own database and may share their information. I go to Jiffy Smog and I get their coupons all the time. They have sent me stuff since I have owned the "creepy van." They know when you are due for a smog test and send you a notice the month before it is due.

**Assemblywoman Spiegel:**

Will you please double check with DMV?

**Assemblyman Carrillo:**

I will follow up.

**Assemblyman Paul Anderson:**

I am sure Jiffy Smog appreciates the "creepy van" endorsement. Nevada is collecting this information and we do not want to encourage this type of activity. Since the data is available from other sources, is restricting this really going to curb the abuses? Are we just trying to say that we do not want the state to provide it versus other sources? Are we really going to stop anything from happening? The Federal Trade Commission has rules on engaging in these types of nefarious activities. The consumer has outlets if they feel they have been burned.

**Assemblyman Carrillo:**

Other people gather this information. They have all of your information, they know your mileage, and when your warranty might run out, and so they sell it to a third party. I would like to say this would stop it all, but you will stop only part of it. I feel like I am punishing the DMV, but this will be my mission, to make sure that we go after all of the other ones as well. I can look at a possible amendment to this bill but not during this session. During the research

process, I may have overlooked that one step. I am sure the Attorney General's office gets complaints as well. I do not think this will affect everybody and will not cover everything. I am not trying to make DMV the bad person.

**Assemblywoman Carlton:**

This information is available from others sources so it may not stop. As representatives of Nevada, we are supposed to advocate for our constituents.

Do we want Nevada to be in the business of selling this information? Section 1 says, "The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose." I notice there is no fiscal note. We do not need to be the library of information unless it is for recall notice, criminal, civil, or legal matters. Do you know if DMV charges for this information? Is there an amount available? Was that part of the discussion?

**Assemblyman Carrillo:**

There was no communication other than when we had our presentation. I did not ask how much money they were making or if they were making money. In *Nevada Revised Statutes* (NRS) 481.063, it says, "The Director may charge and collect reasonable fees." Whether they are selling it or giving it away is a question that DMV would have to answer. I will also get that information to the Committee.

**Assemblywoman Carlton:**

Thank you. I would like that information. I have always had a problem with this Chapter. It keeps getting expanded so I am happy to see it shrinking a bit. There are too many ways that folks can misuse this information.

**Michael Wells:**

The Department of Motor Vehicles does charge for information for all of the uses. R. L. Polk® and our competitor, Experian pay the same rate ([Exhibit J](#)).

**Assemblywoman Carlton:**

I would like someone from DMV to address this.

**Sean McDonald, Administrator, Central Services and Records Division,  
Department of Motor Vehicles:**

As written, the Department has taken a neutral position on A.B. 165 and we would continue that with the amendment. We would neither support nor oppose passage of this bill.

**Assemblywoman Carlton:**

How much?

**Ann Yukish-Lee, Services Manager II, Central Services, Alternate Service,  
Department of Motor Vehicles:**

Can you clarify your question? How much do we charge?

**Assemblywoman Carlton:**

As we look at this bill, limiting the number of people that would be able to access this information, what type of fiscal impact could there possibly be to your budget? We do know that you charge; where does the money actually go? Is it part of your general budget? Does it go into other services? The dollar amount is the pressing question now.

**Ann Yukish-Lee:**

This bill will not impact DMV fiscally because there are several areas already established in statute that qualify a company to receive this information—items such as the safety or recall of a motor vehicle, safety for drivers, insurance companies, accidents, et cetera. The removal of section 1, subsection 6, paragraph (k) of the bill is not going to determine or deter people from getting the information because they will qualify under one of the other areas.

**Assemblywoman Carlton:**

If the goal is to no longer allow warranty companies from obtaining this information, and DMV is currently selling them information, those monies will no longer be collected. Are you saying these warranty companies will still be able to get this information, but through a different venue?

**Ann Yukish-Lee:**

It has been touched on several times today that the information might not be coming through DMV. You get it from your smog companies, your Jiffy Lube companies, or dealers where you purchased the vehicles. You could be getting it from one of the companies that purchase our information through an already established process through statute. I do not believe that removing subsection 6, paragraph (k) will eliminate the company from getting that information, but I do not believe it is coming through DMV.

**Assemblywoman Carlton:**

I am sure DMV has a list of vendors that they work with and bill for information. If there are those companies on that list, how much are we charging them so we can understand the value of that information. We heard in earlier testimony from Mr. Wells that this can be expensive to different companies.

**Ann Yukish-Lee:**

R. L. Polk® is one of our largest customers. They receive information for a wide variety of reasons that are listed through the statute. I believe they deal with insurance companies, recall notices, and safety of motor vehicles. They submit inquiries through DMV to obtain the information. Before they get the information, they set up an account with DMV. They provide us with what they are looking for, what type of information they are expecting to get, and how they are going to use the information. We validate that they are in fact entitled to the information. They are charged based on the information they requested from DMV. How much they are being charged depends on what they are requesting from us.

**Assemblywoman Carlton:**

That answers part of my question. If it is going to be difficult to get to the numbers today, we will probably have to address it in a budget committee. I would like to see the numbers. This information is our constituents' information, and we need to be aware of how much DMV is making and who DMV is doing business with. Whomever you do business with impacts the people we represent. I have concerns with the DMV being in the business of selling information.

**Assemblyman Hambrick:**

I want this Committee to get billing information for the past year. This information will have a lot of weight on how we decide on this bill as it comes down the pipeline.

**Assemblyman Sprinkle:**

Do you have the number of companies that apply for this information strictly for marketing purposes?

**Ann Yukish-Lee:**

Exactly? No. When I was looking at the bill, and I did research this, I could not find one company that we did business with simply for the use of marketing. There was always something else. Information was received for insurance, accidents, motor vehicle safety, the safety of drivers, vehicle recalls, et cetera.

**Assemblywoman Spiegel:**

When you sell the information to third parties, do you put restrictions on it for resale and other uses? Alternatively, are they then free to make money selling the information they are getting through you?

**Ann Yukish-Lee:**

We do put restrictions on them. When they apply for the information, they sign an affidavit that says the information we provide them through the sale of the records will be used for the purpose they provide in the application.

**Michael Wells:**

There are three layers of protection when we acquire the information. There is the federal DPPA and Nevada statutes, which come at a level lower and restrict us even further. We do not use the information for market research in Nevada. We do in many other states. We do not use the information for private polls. We do in many other states. The Nevada statutes are more restrictive than the federal statutes. Below that level is our contract with Nevada that we have to adhere to as well. All of the uses for us are defined by those three levels of protection. In addition, R. L. Polk® is an ISO-27001 certified company, which protects the data. It is the highest level of security in the industry. People cannot hack into our system and gain access to the information.

**Assemblywoman Spiegel:**

How is it possible that you think people selling these extended warranties are getting the information? Is there a way this bill could have been crafted to limit that use?

**Ann Yukish-Lee:**

I wish I could answer that. I do not know how they are obtaining the information. I think there have been many items thrown out on the table regarding how they might be getting the information.

**Assemblyman Paul Anderson:**

The Department of Motor Vehicles is currently not allowed to sell to data aggregators, where they can then rent those lists. It is easy to get access to this information. There are companies that provide these lists on a rental basis so you do not actually own the data. You can rent it from them for specific purposes. You may use some of those services or collect it in-house. Are the restrictions tight enough and is there a way to enforce, other than an affidavit, the use of that data? We could get that data under false pretenses, then go out, and use that data. Do you have any way of tracking that?

**Ann Yukish-Lee:**

I believe the statute is strong enough and addresses the reasons why DMV will sell information. We enter into a contract with various organizations. They provide us the reasons why they need the information. We identify whether, by statute, they are entitled to that information. We provide them with that information. If they decide to rent that information, that is beyond DMV.

**Michael Wells:**

Some states have seeded or salted the data stacks that they sell to an organization so they can determine who the bad guys are. I testified in Nebraska last month and they found one of the bad guys in both Nebraska and South Dakota. That is one practice DMV could take to find some of the bad guys who are misusing the information. They generally do that without telling us. That is not a concern of ours.

**Vice Chairman Hogan:**

Is there anyone in Las Vegas wishing to testify in support of A.B. 165? [There was no one.] Is there anyone in Carson City wishing to testify in support of A.B. 165?

**Lynn Chapman, representing the Nevada Families Association:**

I am one of those elderly people that get phone calls from the extended warranty people. We are in support of this bill. We think this is a good idea. I did a little research on the Internet about this type of thing where DMV is collecting money for our personal information. There was a list of states that are doing something about this. I chose Florida and they took in more than \$63 million in 2010 selling information. According to the spokesperson for Florida's Department of Highway Safety and Motor Vehicles, Charles McBurney, Florida House of Representatives, District 16, asked if the information was being handled properly by the companies that buy it.

That was one of my questions. In addition, are those safeguards being met? We are worried about things like identity theft. The Nevada Families Association worked with and supported Senator Valerie Wiener with the identity theft bills she brought forward. I appreciate this Committee's questions because we had a number of those questions as well.

**Vice Chairman Hogan:**

Are there any questions from Committee members? [There were none.] Is there anyone else wishing to testify in support of A.B. 165 in Carson City? [There was no one.] Is there anyone wishing to testify in opposition of A.B. 165 in Carson City? [There was no one.] Is there anyone wishing to

testify in opposition of A.B. 165 in Las Vegas? [There was no one.] Is there anyone wishing to testify neutrally on A.B. 165 in Carson City? [There was no one.] Is there anyone wishing to testify neutrally on A.B. 165 in Las Vegas? [There was no one.] Assemblyman Carrillo, thank you for rejoining us. Do you have any closing comments?

**Assemblyman Carrillo:**

I want to prevent information from getting out. This may be only one of many steps. If DMV is the first step, we will take additional steps to prevent information from getting out.

**Vice Chairman Hogan:**

We will close the hearing on A.B. 165. We will take a one-minute recess while Chairman Carrillo resumes the chair. [The Committee recessed at 4:25 p.m.] [The Committee reconvened at 4:26 p.m. Chairman Carrillo reassumed the Chair.]

**Chairman Carrillo:**

We will open the hearing on Assembly Bill 256.

**Assembly Bill 256: Makes various changes relating to motorcycles.  
(BDR 43-661)**

**Fred Harrell, Chair, Advisory Board on Motorcycle Safety, Office of Traffic Safety, Department of Public Safety:**

I am here in favor of A.B. 256. I have lived in Nevada since 1972 and ridden a motorcycle since 1967. I got involved in the politics of motorcycling in 1975 and was a lobbyist for the motorcycle riders and motorcycle industry from 1975 to 1995. Some of the legislation I helped draft, and some of it was drafted in the early 1970s and passed into law in 1971, before I moved to Nevada. Some of it was the "movie" legislation that came out of a host of bad motorcycle movies in the 1960s and legislatures throughout the country looked at the movies and said, "What can we do about these motorcycle issues or bikers?" I have researched the history of *Nevada Revised Statutes* (NRS) Chapter 486. Legislation was created without a lot of input from motorcyclists, dealers, or anyone else in the industry. This bill was input with help from the Advisory Board on Motorcycle Safety.

Sections 1 and 2 address the trimobile, a three-wheeled vehicle currently defined by statute ([Exhibit K](#)). This part of the statute was created in the late 1970s or early 1980s. Currently there are three-wheeled vehicles manufactured with both front and rear drive wheels. We want to clean up the definition of the trimobile without confusing the fact that there are motorcycles with sidecars.



The sidecar is a separate manufactured item that is detachable from the motorcycle. In the case of the trimobile with front and rear drive wheels, they remain a three-wheel or two-wheel drive vehicle, whether it is in the front or the back.

Section 3 addresses eyewear standards. When this section was created in 1971, the Department of Motor Vehicles (DMV) was required to create standards. However, nationally there are no motorcycle standards for eyewear or shields. Eye protection is covered by Occupational Safety and Health Administration (OSHA), Food and Drug Administration (FDA), and National Highway Traffic Safety Administration (NHTSA). Over the years, the eyewear standards were never adopted by the State of Nevada. This removes the standards but does not remove the requirement that you must wear eye protection while riding a motorcycle. No one wants to wear glasses that are going to get shattered or end up with a shard of glass in the eye. Because the standards are set by OSHA, FDA, or NHTSA, you have some confusion or conflict. You go to your optometrist and buy your glasses. They have to meet certain standards. You buy a motorcycle helmet, it has a face shield, and it has certain standards, the same as windshields. The standards are there, it is not as if anyone is trying to get around the law. I do not believe DMV saw a way to address this because other entities were addressing the manufacture of the glasses and eyewear.

**Assemblyman Sprinkle:**

What are the problems with standards in the Nevada statutes right now? Are they redundant? Why should we not have standards for protective eyewear for motorcyclists?

**Fred Harrell:**

The Department of Motor Vehicles never adopted standards. It is not that there are no standards for eye protection; the DMV never adopted standards because there are no national standards that we can find that define glasses or eye protection, whether it be attached to a helmet or a face shield on a motorcycle. This is part of the manufacturing process, but nothing was ever written on a national level or in Nevada for eye protection. This has been part of the statute since 1971. We are trying to remove that small section where DMV shall adopt standards when there are none out there.

Section 5 addresses reflectors on the rear of the motorcycle and the height required. Currently 20 inches is required above the travel surface that the motorcycle is sitting on. Motorcycles are being manufactured with reflectors lower than 20 inches. Technically an individual would be in violation of the law if they had a newer motorcycle with the reflector less than the

statute of 20 inches. The Advisory Board on Motorcycle Safety looked at this and did not want to remove the requirement that the reflector, regardless of the height, had to reflect and be visible from behind the motorcycle at least 300 feet. We would like to leave that in the statute. However, the height of the reflector probably does not matter if it reflects back 300 feet.

Section 6 addresses protecting funds that are currently collected from motorcycle registrations. When this portion of the statute was created, the program was funded by motorcyclists who paid a fee of \$6 that goes into a motorcycle safety program. In 2010, more than \$126,000 was removed from that fund to help balance the budget. This did not sit well with motorcyclists. I understand that what you do with this section in this session of the Legislature is not binding on future legislatures. However, as a motorcyclist and as an individual who was instrumental in helping to create this motorcycle program, I was offended when the funds were used for other purposes in 2010. I am not sure how we can protect the funds forever, but I would like to start now so that at least these funds are protected and it does not go on through perpetuity that we are going to be taxed; then, instead of going to motorcycle programming, it is used somewhere else. One of the caveats for getting federal funding is that funds collected for the state program have to be protected in a separate account. That was a consideration when we looked at this to protect the funds. In 2010, we opened ourselves to not getting additional federal funding for motorcycle training awareness.

Section 7 addresses the tuition cap and members of the United States Armed Services stationed on Nevada military installations. When the program was created in 1991, \$100 seemed like a lot of money to pay for tuition for a motorcycle rider training class. Gasoline was under \$1 per gallon. By statute, the community colleges cannot raise their fees. They are subsidized partially by the motorcycle fees collected through our motorcycle registrations. The Advisory Board recommended \$200, the Governor's budget recommended \$150 and private enterprise would recommend the tuition cap be eliminated. I work for a business that does a rider training program. We appreciate what the community college is doing, understand that it is out there, but also understand that the community colleges have a slight advantage as far as competition with private enterprise. I would like to see legislation amended to allow the cap to rise to \$200 or to what the Governor's budget is of \$150. Better yet, set it so the cap rises with the economy. The demand for motorcycle training is there, but not at the level it was in 2005 and 2006.

Section 7, subsection 1, paragraph (c) addresses members of the armed forces temporarily stationed on Nevada bases. When this program was created, training sites were available only through community colleges, and there were

no private enterprises. The military had their own sites in Fallon and at Nellis. As the military has cut back budgets, they have eliminated the training sites. It has put members of the military temporarily stationed on a three-year tour in Nevada who want to ride a motorcycle in a catch-22. We cannot allow them in the program because the program is offered to residents of Nevada only. This section would be amended to allow members of the armed forces stationed in Nevada the opportunity to participate in the motorcycle program.

Section 8 addresses the height of the handlebars. This is one of the 1971 items that was inserted into NRS Chapter 486. The Advisory Board looked at this and initially there was a move to remove it entirely. We took public testimony and decided that allowing the handlebars to go six inches above the operator's shoulder would be sufficient because it addresses California's similar law. Of the five states bordering Nevada, two states have no requirements on handlebar height, one has it shoulder height, and one has it not to exceed the shoulders. It is the same thing across the nation. There is a cross section of similar laws. Since most of our visitors, at least around Reno and Las Vegas, are coming from California, this was a compromise, rather than eliminating it. One of the Advisory Board members is with the Nevada Highway Patrol and was concerned about eliminating it. The Advisory Board came up with the "six inches" compromise to accommodate our guests from California. There are motorcycles currently being made where the handlebars would be slightly above the shoulders of a person who is vertically challenged.

**Assemblywoman Carlton:**

I see the repealed section, but I do not see anything that addresses what you are talking about as far as a change.

**Chairman Carrillo:**

An amendment addresses that ([Exhibit L](#)). The new motorcycles have a higher handlebar height. I noticed that when I sat on one. I have a longer torso than I do legs, but I could tell the difference. I can see where someone who is vertically challenged would have issues. This is a factory-manufactured motorcycle, it is not aftermarket. I have seen handlebars that are a foot above the helmet or top of the rider's head. It is a matter of time before they get pulled over, but I understand what you are talking about with the height from the factory. Dealers are looking for that aftermarket look on the factory showroom floor. None of those bikes that I saw at the Harley-Davidson dealership had aftermarket parts. Sometimes they will put on aftermarket parts to try to entice people to buy a new motorcycle. Maybe you can touch on handlebar heights from the factory. Are any other manufacturers following suit on the handlebar height?

**Fred Harrell:**

When the handlebar height was initially drafted in 1971, it said a measurement could not exceed so many inches above the seat of the motorcycle. When these pieces of NRS Chapter 486 were drafted, there was not a lot for the legislature to go on, and there was no input from the motorcycling public. As a result, that part was amended and now the manufacturers, to appeal to retro nostalgia from the movies out of the 1960s, are making motorcycles with the handlebars higher than they were when I first got into motorcycling. Yes, the handlebar heights are higher, not on all models, but on some that they are using them for a broader appeal. If you ride a Harley-Davidson, you know the metric manufacturers tend to emulate Harley-Davidson, and some of their motorcycles are coming out with higher handlebars as well. We cannot tell them what to manufacture; they bring it out. There does not seem to be a national standard on height of handlebars any more than there are real statistics on how the height contributes to accidents and fatalities. I do not know, maybe the manufacturers just look at it and say, "Okay, we are going to do this." They do it and it sells. If it does not sell, they pull it off the market. They seem to be selling right now.

Section 4 addresses headlamps and what is being manufactured now. Currently the statute reads "not more than two headlamps." Several metric motorcycles are being manufactured with four headlamps. This amendment clears it up because technically they are illegal in Nevada.

**Chairman Carrillo:**

You mentioned metric motorcycles. Are you referring to imported?

**Fred Harrell:**

Yes, imported motorcycles like Yamaha, et cetera. Under current law, the trimobile is a motorcycle vehicle that has three wheels, two of which are power driven. The Can-Am Spyder, which was introduced in 2007, has two wheels with front-wheel drive. The current NRS calls a trimobile a "motor vehicle designed to travel with three wheels in contact with the ground, two of which are power driven." Because it has only one drive wheel, the Spyder is considered a motorcycle subject to the laws of a two-wheel vehicle. However, it is a three-wheel vehicle. The Spyder handles more like a traditional trimobile and therefore should be considered a trimobile. The amendment in section two of A.B. 256 will result in the Spyder being considered a trimobile as intended ([Exhibit L](#)).

However, as drafted, the bill would also result in a motorcycle with a sidecar being considered a trimobile. This was not our intent or the intent of the Advisory Board. The Advisory Board is proposing to amend section 2 with a

new subsection that excludes a motorcycle with an attached sidecar from the definition of a trimobile.

Under NRS 486.201, the height of the handlebars is not to "extend above the uppermost portion of the driver's shoulders when the driver sits on the seat and the seat is depressed by the weight of the driver." The Advisory Board originally wanted to repeal the handlebar height. It was later changed to not more than six inches above the shoulder.

The Advisory Board is proposing to delete section 8 of the bill and then amending NRS 486.201 to read as follows: "The person shall not drive a motorcycle or moped equipped with handlebars which extend higher than six inches above the uppermost portion of the driver's shoulders when the driver sits on the seat and the seat is depressed by the weight of the driver." The individual would have to put their full weight on the seat. This brings us closer to California's handlebar law. Nationwide, some handlebar regulations say six inches over the shoulder, some states require shoulder height, and some states do not have height requirements.

The third amendment addresses motorcyclists on active military duty stationed on one of the installations in Nevada. The current wording of sections 7 and 8 provides that a "member of the Armed Forces of the United States stationed at a military installation located in this State and is authorized by the person's state of residency to drive a motorcycle," in order to enroll in the program for education of motorcycle riders. Many states have reciprocal agreements with Nevada providing that if a person not currently licensed to ride a motorcycle takes a license waiver course in this state, that person's home state will recognize the training and will grant a motorcycle endorsement to that person's home state. The Advisory Board would like to allow members of the armed forces who are residents of another state, but who are not currently licensed to drive a motorcycle in that state, be allowed to enroll in the program in Nevada. It puts motorcyclists on active duty in a catch-22 because to ride a motorcycle as a member of the military, the military or base commander requires that you go through a motorcycle rider training program. It is almost impossible for them to comply and I do not believe this was the intent of the military and it certainly was not our intent when we drafted this legislation in 1991. This amendment opens the door for active military members to be eligible for Nevada's program.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.]  
Is there anyone wishing to testify in support of A.B. 256?

**Eric Spratley, representing the Washoe County Sheriff's Office:**

I am here to express support of A.B. 256.

**Robert Roshak, representing the Nevada Sheriff's and Chief's Association:**

"Ditto" on what he said.

**Chairman Carrillo:**

Great, it is good to see we have law enforcement support on this bill. Is there anyone in Las Vegas wishing to testify in support of A.B. 256?

**Victor Moss, President, D&M Cycle School, Las Vegas, Nevada:**

D&M Cycle School is a state-certified motorcycle training program. We have oversight from the Motorcycle Safety Foundation. I definitely want to support this bill, especially some of the cleanup.

I want to mention a couple of things. One is about the handlebar height. I am 5 foot 11 inches. I sat on a motorcycle at the local Victory dealer, and if my torso were one inch shorter, I would have purchased a bike that would then cause me to be cited for riding a bike illegally. No consumer should have to be put in a position of violating the law because the law does not keep up with what is going on in the community of motorcycling. I have heard people say that it is difficult to control motorcycles with the handlebars up high. I have been a motorcycle instructor for 15 years and a rider for 43 years, and I am in awe of the way these guys ride their motorcycles when I see them with their arms up.

I would also like you to consider removing the cap of the fee as opposed to raising it to \$200. It is not a fee; it is tuition for the training course. I could find nothing else where government mandates the maximum tuition that could be paid through the taxpayer-subsidized program. There are six private providers in Nevada. It puts our business at a terrible competitive disadvantage because we have to explain to potential customers why our programs are running at a higher fee than what the government is charging. My understanding of government is that they should provide the services that private industry cannot or will not provide. It made sense when the program was established because nobody else was doing it. Now that we have private industry fully capable of doing that, we should not be in direct competition, at least when it is subsidized by our money. I pay into that safety fund for all of my motorcycles just to subsidize the training that competes with me. We are a small community. Some of the instructors that work for me work for the college and the Harley dealer. We are all in it for the same reason and that is traffic safety, the safety of motorcycle riders. I would ask that you seriously

consider removing that tuition cap so that ten years down the road we will not have to come back here again asking for it to be raised because of inflation.

If you remove that cap, you could also remove section 6, subsection 3, paragraph (a), where it talks about the program being used to reimburse instructors.

I am a retired master sergeant and spent many years traveling around the world. I was at nine different assignments during my career. I can testify firsthand the hassles that military people go through to be licensed throughout the world. I am 100 percent in favor of anything that will help the military. I am also the contractor with the federal government who provides training at Nellis Air Force Base. As a businessman, I could conceivably restructure my bid and change my fee structure, knowing that I could reach out to the Account for the Program for the Education of Motorcycle Riders and get a subsidy for the instructors who are providing mandatory training for the military. As a Nevadan, I do not think we should be subsidizing the federal government to provide mandatory training. If you do not remove the cap altogether, I would ask that in section 6, subsection 3, paragraph (a), there should be a caveat that those expenses do not apply to contracted services at military bases.

**James Kinsey, Private Citizen, Las Vegas, Nevada:**

I had the privilege of working with Mr. Harrell on these drafts, first through the National Highway Traffic Safety Administration assessments in 2011 and then the Advisory Board Committee and open public workshops. I do support them in their entirety. Command Sergeant Major Richardson of the Office of the Military actually addressed the Advisory Board one time and pointed out we have lost more active and reserve military in Nevada to motorcycle crashes than we have on the war on terrorism since 9/11.

On a more upbeat note, today is the anniversary of the first two-wheeled motorized vehicle coming into Las Vegas. A 12-horsepower vehicle went from Phoenix to Las Vegas in 1887.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] Is there anyone wishing to testify in opposition of A.B. 256 in Carson City or Las Vegas? [There was no one.] Is there anyone wishing to testify neutrally on A.B. 256 in Carson City or Las Vegas? [There was no one.] We will close the hearing on A.B. 256. Is there any public comment? [There was none.]

The meeting is adjourned [at 5:20 p.m.].

RESPECTFULLY SUBMITTED:

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Jacque Lethbridge  
Committee Secretary

APPROVED BY:

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Assemblyman Richard Carrillo, Chairman

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



**EXHIBITS**

**Committee Name: Committee on Transportation**

**Date: March 21, 2013**

**Time of Meeting: 3:22 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 145	C	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work session document
A.B. 151	D	Vance Hughey, Senior Research Analyst, Research Division, Legislative Counsel Bureau	Work session document
A.B. 165	E	Assemblyman Richard Carrillo, Las Vegas Assembly District No. 18	Factory Warranty documents
A.B. 165	F	Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company	R. L. Polk® informational sheet
A.B. 165	G	Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company	Letter of support
A.B. 165	H	Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company	Carfax testimony
A.B. 165	I	Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company	Amendment
A.B. 165	J	Michael Wells, Regional Director, Government Relations, R. L. Polk® & Company	Letter of support from Sean Wheatley, presented by Michael Wells.
A.B. 256	K	Fred Harrell, Las Vegas, Chair, Advisory Board on Motorcycle Safety	Testimony
A.B. 256	L	Fred Harrell, Las Vegas, Chair, Advisory Board on Motorcycle Safety	Amendment