

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

**Seventy-Seventh Session
March 26, 2013**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 3:22 p.m. on Tuesday, March 26, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: 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 Crescent 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:

Assemblyman William C. Horne, Clark County Assembly District No. 34
Assemblyman Andrew Martin, Clark County Assembly District No. 9
Assemblyman John Ellison, Assembly District No. 33

STAFF MEMBERS PRESENT:

Vance Hughey, Committee Policy Analyst
Scott McKenna, Committee Counsel
Cynthia Zermeno, Committee Manager
James Fonda, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Tom Greco, Assistant Director, Planning, Department of Transportation
Victor Moss, President, D&M Cycle School, Las Vegas
Peter Vander Aa, Program Administrator, Program for the Education of
Motorcycle Riders, Office of Traffic Safety, Department of Public
Safety
Whitney Morfitt, Intern for Assemblyman William C. Horne
Jennifer Lazovich, representing Lamar Advertising
John Terry, P.E., Assistant Director, Engineering, Chief Engineer,
Department of Transportation
Mark James, President and Chief Executive Officer, Frias Transportation
Management; President and Chief Executive Officer, Frias
Transportation Infrastructure; Member of the Board, Livery
Operators Association of Las Vegas
Marc C. Gordon, General Counsel, Yellow Checker Star Transportation
Bill Shranko, Chief Operating Officer, Yellow Checker Star Transportation
Michael K. Sullivan, representing Whittlesea Bell
Mark E. Trafton, Vice President and General Counsel, Whittlesea Bell
D. Neal Tomlinson, Regulatory Counsel, representing Frias
Transportation Management
Stephanie Edelman, Driver, ANLV Cab Company, Frias Transportation
Management
James J. Jackson, Attorney, representing Frias Transportation
Management
David Goldwater, representing Desert Cab Inc.
Sarah K. Suter, representing Las Vegas Defense Lawyers
Loren Young, President, Las Vegas Defense Lawyers
Bill Bradley, representing Nevada Justice Association

Andrew J. MacKay, Chair, Nevada Transportation Authority, Department
of Business and Industry
A.R. (Bob) Fairman, representing ARF Corporation, Carson City, Nevada

Chairman Carrillo:

We have a packed agenda today. We have five bills on the work session and four that are scheduled for a hearing. Because we have a couple members that will be leaving soon, we would like to get the work session underway. I am going to have our Policy Analyst, Vance Hughey, walk us through the work session.

Assembly Bill 18: Revises provisions governing the relinquishment of state highways to local governments and the relinquishment of local roads to the Department of Transportation. (BDR 35-363)

Vance Hughey, Committee Policy Analyst:

The first bill on the work session is Assembly Bill 18 ([Exhibit C](#)), which revises provisions governing relinquishment of highways. There was one amendment to this bill that was proposed by the Department of Transportation (NDOT). Members of the Committee will recall that the NDOT officials went over the proposed amendment during the hearing on this bill. However, since the hearing, the NDOT officials have worked with legislative staff to try and clarify some questions concerning the original proposed amendment and the document that is included in your work session packet is an updated version of the proposed amendment that we heard during the hearing on the bill.

There are six main elements of the proposed amendment and they are as follows. First, to require that a relinquishment agreement be in writing. This was part of the original proposed amendment, shown near the top of page 2 of the proposed amendment. Second, restructure subsection 1 of *Nevada Revised Statutes* (NRS) 408.527 to eliminate duplicate references to the adoption of an ordinance. The concept is essentially the same as the original amendment, but the wording has been revised. This is also shown near the top of page 2 of the proposed amendment.

Third, on page 3 of the proposed amendment, amend subsection 6 of NRS 408.527 to clarify that if NDOT relinquishes property to a local entity and the purpose for which the property was relinquished is abandoned or ceases to exist, the property will not revert back to NDOT unless an agreement or provision of law dictates otherwise. Again, the concept here is unchanged, but the wording is revised slightly to make it so the Legal Division can draft it better.

Fourth, require that an agreement concerning equitable compensation or trade values be in writing. This is in the original, shown near the top of page 4 of the proposed amendment.

Fifth, amend subsection 9 of NRS 408.527 to clarify that when a relinquishment occurs, the receiving party is entitled to get the road in good repair, and if the road is not in good repair, the receiving party must get either an equitable monetary payment or an equitable trade consideration as negotiated between NDOT and the local entity. Any agreement concerning equitable monetary payment or an equitable trade consideration must be in writing. Again, original concept but slightly revised, and this is shown near the bottom of page 4 of the proposed amendment.

Finally, add a new provision to require that NDOT develop a procedural document, in cooperation with local governments, that addresses the process by which portions of roadways are to be relinquished. The Department of Transportation's Board of Directors shall approve the document and any subsequent modifications to the document. Again, original concept but the wording is slightly revised. This is shown on page 5 of the proposed amendment. There were no other amendments to A.B. 18 received by legislative staff.

Assemblyman Bobzien:

Can we get NDOT or someone who can speak to the amendment to talk about the language in section 9? The way that I read this, this is to provide a little more flexibility in the crafting of the agreements for the relinquishments, so that if you have a situation where a road is not in good repair rather than saying, "Oh gosh, we need another season to get it in good repair," there can be some flexibility for the creation of an arrangement, whereby you are going to give other property, other monetary compensation. What exactly are we doing with this limit?

Tom Greco, Assistant Director, Planning, Department of Transportation:

The language is meant to move toward an equitable distribution in relinquishments. In a trade situation, if the state is trading roadway A with county's roadway B, the guidelines document would delineate what equitable means as to dollar value and condition of the roadway. Good condition, good repair will also be further defined within that document to mean that if in the instance of a trade, if the state road to be relinquished is not in good repair, it would either be brought to good repair by the state prior to a relinquishment, or a dollar estimate would be established and agreed to, by both the state and the local agency.

For example, if in order to bring A up to good repair the estimate is a million dollars, the local agency would be given an option. They can decide if they want the state to do that repair, or receive the road as is and the million dollars.

Assemblyman Bobzien:

When comparing this amendment to the original language, you would characterize this then as allowing for more flexibility in the creation of an equitable arrangement?

Tom Greco:

Absolutely.

Assemblyman Bobzien:

Number two, there is nothing in here that is necessarily skewing the balance between the parties in that negotiation. This is not necessarily advantageous to the local government nor to NDOT. This is just about allowing more flexibility for coming up with a solution.

Tom Greco:

Thank you. I am comfortable.

Assemblyman Sprinkle:

The amendment talks about the negotiation between the two, so that is already going to be settled before we ever get into that situation, otherwise we would not be doing this, correct? As far as the monetary compensation or what have you if the road is in disrepair?

Tom Greco:

Absolutely. The general process would be NDOT would initially identify a roadway that was to be relinquished or traded, offer that to the local agency, and that is the start of negotiations.

Chairman Carrillo:

Any other questions? I see none. I will accept a motion.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 18.

ASSEMBLYWOMAN FLORES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chairman Carrillo:

I will assign this bill to Assemblyman Hambrick to present on the floor.

Assembly Bill 129: Provides for the issuance of special license plates honoring peace officers who have received certain medals. (BDR 43-154)

Vance Hughey, Committee Policy Analyst:

The next bill on your work session is Assembly Bill 129, which provides for the issuance of a special license plate honoring peace officers who have received certain medals (Exhibit D). The special license plate would be available to a current or former peace officer who has received one or more of the prescribed medals for his or her service as a peace officer. It would also be available to a family member of a person who was killed in the line of duty while serving as a peace officer and who was awarded posthumously the Medal of Honor.

Included in your work session packet is a mock-up of A.B. 129, which was prepared by the Legal Division of the Legislative Counsel Bureau. It includes several proposed amendments. First, during the hearing on this bill, both Assemblyman Livermore and Deputy Sheriff Josh Stagliano of the Carson City Sheriff's Department, requested that the words or their equivalents be added to the list of qualifying medals.

Second, Assemblywoman Carlton requested that wording be included in the proposed amendment to clarify that a person may qualify for this special plate whether the qualifying event took place before or after the effective date of the bill. Third, the Department of Motor Vehicles (DMV) requested that the wording now shown in section 6 on page 7 of the mock-up be added. With this wording, the DMV would design a plate as soon as practicable after the effective date of the bill.

Chairman Carrillo:

I open this up for discussion.

ASSEMBLYMAN SPRINKLE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 129.

ASSEMBLYMAN HEALEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chairman Carrillo:

I give this floor assignment to Assemblyman Sprinkle.

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)

Vance Hughey, Committee Policy Analyst:

The next bill is Assembly Bill 165 ([Exhibit E](#)). This bill limits the purposes for which the Director of the Department of Motor Vehicles is allowed to release certain personal information. Chairman Carrillo proposed to amend A.B. 165 to prohibit the director from providing personal information to individuals or companies for the purpose of marketing extended vehicle warranties as shown.

Chairman Carrillo:

I would like to open up for discussion. I see none.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 165.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Chairman Carrillo:

Any discussions on the motion?

Assemblywoman Carlton:

I did receive some information on the different categories that these requests can be made under and the financial impacts of that. Depending upon how the bill moves forward, we may have to have a further discussion and another morning Committee meeting. But, I do support it. I would like my phone to stop ringing with someone trying to sell me a warranty on a car that I have not had for the past five years.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chairman Carrillo:

The floor assignment will go to Assemblyman Wheeler.

Assembly Bill 176: Revises provisions relating to the emissions testing of certain consigned vehicles. (BDR 40-964)

Vance Hughey, Committee Policy Analyst:

The next bill is Assembly Bill 176, which exempts a consignee from the requirement to provide the buyer or long-term lessee of a vehicle with certification that the vehicle sold at a consignment auction is equipped with pollution control devices and complies with the requirements of the State Environmental Commission under certain circumstances ([Exhibit F](#)).

Three amendments have been proposed. First, the Department of Motor Vehicles (DMV) proposed amending section 6 of the bill to require that the notice to the buyer that the consignee is not required to obtain an inspection or testing of the vehicle be on a form approved by the DMV. Second, Assemblywoman Carlton suggested that the effective date of the bill be changed from October 1, 2013, to "upon passage and approval" in order to ensure the provisions of the bill would be in effect prior to this year's Hot August Nights event.

Finally, George Ross of Snell & Wilmer, LLP on behalf of Copart, submitted the proposed amendment that is included in the work session packet. This proposed amendment revises the definition of "consignment auction" to address concerns of possible disparate treatment of live auction companies and web-based auction companies under the bill as written. It also addresses a concern raised by the DMV that vehicles be available for inspection by potential buyers or their agents prior to or at auction events.

Chairman Carrillo:

I would like to open up for discussion.

Assemblywoman Carlton:

I do support the bill and what they are trying to do. I have some concerns with the last proposed amendment by Mr. Ross. I will support the bill going forward, but I would like more time to be able to go over this.

I see a couple of things that make me concerned about how it is actually going to impact other businesses in the state when we start talking about salvage pools. I am not sure we have not opened up a hornet's nest with some of the wording in this proposed amendment.

Chairman Carrillo:

Assemblywoman Carlton, do you feel you need to bring Mr. Ross up?

Assemblywoman Carlton:

We have a lot to do. I can work on it offline. If you and staff are comfortable with it, I will go with it right now; but I may need to change my vote on the floor if I find out that this does more than it appears on the surface.

Chairman Carrillo:

Do we have other discussion on A.B. 176?

ASSEMBLYMAN PAUL ANDERSON MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 176.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chairman Carrillo:

I give the floor assignment to Assemblyman Paul Anderson.

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

Vance Hughey, Committee Policy Analyst:

The last bill on your work session today is Assembly Bill 256 ([Exhibit G](#)), which revises the definition of a trimobile, revises provisions governing certain equipment that is required on a motorcycle or moped, and removes the requirement that the Department of Motor Vehicles approve standards for certain protective equipment required when riding a motorcycle or moped. The bill also revises provisions concerning the use of money in the Account for the Program for the Education of Motorcycle Riders. Finally, A.B. 256 increases from \$100 to \$200 the fee the Director of the Department of Public Safety (DPS) may establish to enroll in the Program and allows certain members of the Armed Forces of the United States who are stationed in this State to enroll in the Program.

Fred Harrell, Chairman of the DPS Advisory Board on Motorcycle Safety, proposed several changes to the bill. These changes are detailed in the document that is part of your work session packet.

The first change is intended to exclude a motorcycle with an attached side car from the definition of a trimobile. The second change would delete section 8 of the bill, effectively eliminating the repeal of the law that specifies the maximum height of handlebars on a motorcycle or moped. This provision would then be

amended to change the maximum height of a handlebar from shoulder height to "not more than six inches above the shoulder" of the driver. The third and final change revises the wording of section 7 of the bill to allow an active duty member of the armed forces stationed at a military installation located in this state to enroll in the Program for the Education of Motorcycle Riders, if he or she holds a motorcycle driver's license or a motorcycle endorsement to a driver's license issued by any state, or is eligible to apply for such a license or endorsement issued by any state.

Victor Moss, President of D&M Cycle School, Inc., in Las Vegas, also submitted a proposed amendment, which is part of your work session packet. He proposed eliminating the cap on the fee the DPS director may establish. Finally, after the work session document was prepared, I had a conversation with Chairman Carrillo, and he is proposing that the fee be changed from \$200 as currently in the bill to \$150, which would comport with a fee change that is currently being proposed in Assembly Bill 472, which is a fee amount that the Governor has recommended.

Assemblywoman Carlton:

I am a little confused. We kind of talked in circles about the Spyder versus the sidecar. And under this legislation, is the Spyder going to end up becoming a motorcycle?

Chairman Carrillo:

I believe trimobile is the standard three wheels on the ground. I do not believe it is considered a motorcycle in current statute. It is going from two wheels powered to one wheel powered, still with three wheels on the trimobile.

Assemblywoman Carlton:

If I get a Spyder do I have to take a motorcycle class?

Chairman Carrillo:

I am getting some head nods that no, they would not. But let us have one individual who came up from Las Vegas. Mr. Moss, I know you are a trainer for motorcycle riding, so maybe you can elaborate a little bit on that.

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

I did testify last week and thought this was an important enough bill to come up here to speak to you in person, so that is why I am here. My understanding of the Spyder is that it would not be considered a motorcycle. The safety programs cannot use three-wheel vehicles in the class. That is a restriction from the Motorcycle Safety Foundation. Under current law and the *Nevada Administrative Code*, you can test for a motorcycle license with

a three-wheeled motorcycle like the Spyder and get a restriction. So you would have a class M license with a certain restriction that says you tested on three wheels. Changing the definition to a trimobile would not force anybody to go through the class or require any kind of class at all. It would just clarify the law for those that have the Spyders.

Assemblywoman Carlton:

The last thing this bill does is clarify anything for me. It is a very confusing bill. In one sentence I am seeing that it is a one-wheel drive vehicle. I will not have to test to drive the Spyder to have a motorcycle endorsement on my license, but I can if I want to.

Victor Moss:

Correct. Currently, the law calls a trimobile a three-wheel vehicle, two wheels powered. It does not treat it as a motorcycle, so you do not have to get a motorcycle license. Some people do get the class M license with the restriction, because other states do consider them motorcycles, and they can find themselves, if they travel a lot, being pulled over and cited for not having a motorcycle license, even though Nevada law does not require it. It would help those people on the trimobiles.

We get a lot of people through our school that want to get a motorcycle license because the police do not know how handle this machine, whether it is or it is not a motorcycle. They come through, they get a two-wheel, motorcycle license, just to cover the squares for them. But by defining it the same as what we consider a trimobile with two wheels powered, it would eliminate that confusion for the police and for the riders. Three wheels on the ground, it is a trimobile. It is irrelevant, whether it is powered by one wheel or by two wheels.

Assemblywoman Carlton:

The motorcycle with sidecar will still have to get the motorcycle endorsement, because it is a motorcycle?

Victor Moss:

It is a motorcycle because of the way it functions, and sitting on it, it has entirely different dynamics. It would still be considered a motorcycle.

Chairman Carrillo:

Any other questions for our discussion?

Assemblyman Bobzien:

The bill is increasing the cap to \$200, the proposed amendment from one of the private operators was for just lifting the cap all together. I am coming at this from the Assembly Committee on Ways and Means Subcommittee on Public Safety, Natural Resources and Transportation in which we reviewed the *Executive Budget*, which had it at \$150. So it is your intent to have it at \$150 so that we are consistent, is that correct?

Chairman Carrillo:

That is correct.

Assemblyman Bobzien:

Just for the edification of the Committee, the testimony that we got was that by increasing it to a higher level, \$150, at the community colleges there will be a reevaluation of the subsidy. It is not about blowing through the fund sooner on reimbursement for the faculty. There was some testimony about being able to better use some of that money for labs and other activities for motorcycle safety. So, I think from the standpoint of not getting crosswise with the Governor's recommended budget on something as relatively minor as this, I would support the \$150.

Assemblyman Paul Anderson:

I guess I do not understand the cap, and maybe you guys have a little more background on it. I know Mr. Moss has got some history on it as well in the letter here [([Exhibit G](#)), page 4]. My understanding is the class is not required, you can go down and take your motorcycle test from the Department of Motor Vehicles, and I believe there is a fee involved. Can somebody clarify this for me?

But we are encouraging people to take the test, obviously for safety reasons. So we are capping it at a certain rate. Plus, we are subsidizing it at the community colleges. We have private entities that are also competing for this safety class. Have I got all that correct?

Chairman Carrillo:

I wanted to see if we could bring Peter Vander Aa, with the DPS Advisory Board on Motorcycle Safety.

Peter Vander Aa, Program Administrator, Program for the Education of Motorcycle Riders, Office of Traffic Safety, Department of Public Safety:

I am the program administrator for the Nevada Rider Motorcycle Safety Program, a program within the Office of Traffic Safety, a division within DPS. I am happy to answer any questions.

Assemblyman Paul Anderson:

I just want to understand the fee that we are charging here. Essentially we are capping what anybody can charge for a safety course, if I understand correctly? Or is it just what the schools can charge for a safety course?

Peter Vander Aa:

The fee is in place for Nevada Rider Motorcycle Safety Program, which handles the rural training and a little bit in Carson City. And also for any of the colleges that are under contract with the program, which would be Truckee Meadows Community College, Western Nevada College, and College of Southern Nevada.

Assemblyman Paul Anderson:

And so we cap that just to make it affordable for the general public, for safety issues? Is that why we have a cap there?

Peter Vander Aa:

Right, there was a cap set in the early '90s of \$100, and it has not been raised since. The purpose was to keep the courses affordable.

Assemblyman Paul Anderson:

My understanding is that is not the true cost, and so we also subsidize those schools that are providing those courses, through general funds.

Peter Vander Aa:

Sometime in the past, the schools were not able to operate in a cost recovery basis, so they needed to be subsidized because the most they could charge the student was \$100. Right now they are being subsidized \$40 per student. So in effect, they get \$100 from the student and an additional \$40 from the program.

Assemblyman Paul Anderson:

In our urban areas, where we have private companies that also provide this service, we are essentially competing with those private companies, not at a market rate. Would that be accurate to say?

Peter Vander Aa:

Yes, private providers charge anywhere from \$175 to \$300 or more per class.

Assemblyman Paul Anderson:

Thank you, I needed that clarification.

Chairman Carrillo:

Is that all the discussion on A.B. 256?

Assemblyman Hardy:

I believe we really need to remove that cap. I do not think it is a subsidy that we should be paying, especially in this market. People who can afford a motorcycle, can afford to be trained.

Chairman Carrillo:

After having some discussion, we talked about basically keeping it with the Governor's recommendation of \$150, and so I would like to keep that on there. I would like a motion.

ASSEMBLYWOMAN FLORES MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 256 KEEPING THE AMENDMENT CAP OF \$150.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chairman Carrillo:

I would like to give the floor assignment to Assemblywoman Spiegel. That concludes our work session. We will be opening up the hearing on Assembly Bill 305.

Assembly Bill 305: Revises provisions relating to highways. (BDR 35-1030)

Assemblyman William C. Horne, Clark County Assembly District No. 34:

Thank you for this opportunity to introduce Assembly Bill 305. Today I ask for this Committee's indulgence in that I have the pleasure of introducing one of my interns here from the University of Nevada, Las Vegas (UNLV). Her name is Whitney Morfitt. Whitney, with the Chairman's permission, will be presenting A.B. 305. She is 21 years old, from Salem Oregon, and is currently a senior at UNLV. She is majoring in history and minoring in political science, and will be graduating this May. I do not know if any of you have interns in your office, but one of the things I have enjoyed is having interns participate in the legislative process, not only researching and preparing bills, but also making presentations to the committees and answering questions. I can assure you that Whitney is more than capable of completing this task. Unfortunately, Mr. Chairman, I have got some other pressing matters that need to be attended to and I also have my Policy Assistant Brittany Ship to help.

Chairman Carrillo:

It is always a pleasure to have a majority leader come to your Committee and speak. Thank you very much for offering up the testimony for A.B. 305, Whitney.

Whitney Morfitt, Intern for Assemblyman William C. Horne:

I am here to present Assembly Bill 305. Assembly Bill 305 would amend and update *Nevada Revised Statutes* (NRS) 410.400 to add operational requirements for commercial electronic variable message signs to the list of items that the Board of Directors of the Department of Transportation (NDOT) has the authority to regulate. The bill would also define exactly what a commercial electronic variable message sign is. The bill, as it is currently drafted, defines a "commercial electronic variable message sign", as being "a self-luminous advertising sign which uses electronic or digital technology to depict changes of light, color or message and which may include, without limitation, static images, image sequences or full motion video." These are also known as electronic or digital billboards. There is a friendly amendment that would revise the definition of a commercial electronic variable message sign. The friendly amendment was needed because as the bill defines commercial electronic variable message signs it is not in compliance with how the Federal Highway Administration (FHWA) already regulates these signs, so it would make it so we were in compliance. Examples of some of those electronic or digital billboards are in the exhibit ([Exhibit H](#)).

Assembly Bill 305 is needed because currently the Board of Directors of NDOT is required to issue permits and to inspect advertising signs, displays, or devices. While electronic signs are allowed, the operating parameters have not been specified yet. What this bill would do is specify the regulations that the Board of Directors would have for these signs, and they would be in accordance with the FHWA's standards for these signs. It is my understanding that NDOT has already been issuing permits for these signs. Again, this bill would just clarify that they have the authority to do so. And, since they have already been doing this, it should not impact their budget, or give them an extra workload. Jennifer Lazovich is here to go over the friendly amendment in more detail.

Jennifer Lazovich, representing Lamar Advertising:

We are in support of A.B. 305, and we would like to explain the amendment that Whitney referred to. The amendment that we are presenting today would do two things. First, in section 1, subsection 1, paragraph (b), it would clarify that although NDOT currently has the authority to issue permits for digital billboards ([Exhibit I](#)), they also need to adopt regulations dealing with the operational requirements. For example, how frequently can a message change on a digital billboard. The second thing it would do is refine and clarify the

definition of commercial electronic variable message signs, to make it clear that only static images are allowed. You cannot do full motion video. And it would allow for future technology that we believe is coming down the road ([Exhibit J](#)).

Chairman Carrillo:

Do the committee members have any questions? I see none. Can we move to support on A.B. 305? Any support in the south on A.B. 305? [There was none.] Opposition to A.B. 305 in Carson City? [There was none.] Down south, any opposition? Neutral? [There was none.] Now we move to neutral in Carson City?

John Terry, P.E., Assistant Director, Engineering, Department of Transportation:

We are neutral on this bill. We do understand that there is some ambiguity in the technology of the signs, and perhaps the only amendment or change that could be considered is the bill list that would have to be approved by the Department's Board of Directors. We see some advantages of it simply listing the Department because we do not see these as issues that necessarily have to go to our Board of Directors for approval. The Department working through legislature could execute the elements of this agreement were it to be passed.

Chairman Carrillo:

Any closing comments? No? Okay, we will close on A.B. 305. Next, we have Assemblyman Martin to present Assembly Bill 329.

Assembly Bill 329: Revises provisions governing taxicabs in certain counties. (BDR 58-555)

Assemblyman Andrew Martin, Clark County Assembly District No. 9:

I am presenting my first bill. Assembly Bill 329 is about long-hauling. This is a practice by taxicabs of intentionally taking the longer of two routes to a destination to increase the fare paid by the rider ([Exhibit K](#)). It is illegal. I will walk you through the sections of the bill. I know you have a packed agenda. This is going to be a concise presentation.

Sections 1 through 4 essentially require the Taxicab Authority to establish a flat-rate fare structure. Where it reads, "out of international airports in counties with a population above 700,000," read that as Clark County. When it says "to the areas determined most susceptible to long-hauling," read that as the Strip hotels. This is really a tourist prevention act, in terms of ripping off tourists, that is. We do not want to do that. Long-hauling, unfortunately, does.

Sections 1 through 4 would also establish a hotline, and a phone number would be posted in taxicabs for customers to register complaints, either about long-hauling or about other issues. Additionally, sections 1 through 4 would allow the Taxicab Authority to consider the creation of other flat-rate zone fares as needed. Initially, the intent of this bill is to establish a flat-rate fare zone from McCarran Airport over to the Strip, and then from the Strip back to McCarran Airport. But, that would be up to the Taxicab Authority to establish the proper zones, or zone, whatever they determine ([Exhibit L](#)).

Section 5 greatly increases the penalties to the driver who is guilty of long-hauling. Currently there is very little enforcement of this and the penalties are very light. Section 5 takes hold of this and in the last part of the penalties, the third violation does result in revocation of your taxicab license.

Section 6 also holds the taxicab companies more responsible. The taxicab companies will automatically be penalized every time one of their drivers is. Right now, that is not the case.

Section 7 talks about the effective date, which would be October 1, 2013.

Sections 8 through 10 would require the Taxicab Authority to establish a pilot electronic monitoring program, read that as global positioning system (GPS), to track movements of vehicles, and submit a report on the pilot program by June 30, 2014. The intent of this bill is not to establish flat-rate zones in all areas of Las Vegas. The initial program would be out of McCarran over to the Strip hotels where our tourists are most susceptible to the long-hauling practices. Moving to the presentation [([Exhibit K](#)) page 2], there are two ways taxicab fares are determined, metered and flat rate. The problem with metering is that it is susceptible to the long-hauling. Visually this is what is going on, and I think a picture is worth a thousand words (page 3). The blue line is the shortest route from McCarran Airport to the Las Vegas Strip, I believe we did it to the MGM Hotel. This is all courtesy of MapQuest. There has been a lot of discussion in the articles in the newspaper as to "How long does it really take?" Well, here is your answer based on normal traffic. You can see on the red line, the long-haul route, through the infamous tunnel, around I-215, up I-15, and onto Tropicana or wherever they are going. It is more than twice the distance and the fare is substantially higher. This results in angry tourists. So what does that really mean? It means that when you are angry you are going to spend less money in our casinos, less money in our restaurants, and less money period. Our reputation is damaged. This an economic calculation. You might not come back, you are going to tell your friends what happened, and so forth.

This is one of many articles that have been written about this (page 5). Long-hauling is becoming an epidemic. I would argue that it is an epidemic. This is not a new issue. It used to be called diversion back ten years ago; long-hauling became the more popular term. This is becoming worse and worse and we really need to stop this.

The solution is the same flat fare for both routes. This is a low-cost to no-cost solution to the problem of long-hauling. So who is going to set the flat-rate fare? The Nevada Taxicab Authority is what we are proposing. They know best about what the different costs for routes would be. Which areas are affected? It is really targeted at McCarran to the Strip hotels, that is the majority of the problem.

We are not alone if we do a flat-rate fare system. These are other cities with flat-rate fares (page 8). They are very well populated. They did this for a reason. Out of their airports they have flat-rate fares. Let us look at New York. I used to drive a taxi in New York. We had a flat-fare system out of the New York metropolitan airports, we had a medallion system. We would go to midtown and it would be one rate, and downtown it would be another rate.

This is so overdue in Las Vegas that I cannot believe we have not already done it. You can argue the numbers and the percentages of people long-hauled, but this is a real, significant problem. It is \$10 million dollars, and actually if you do the math on this example (page 9) it is actually \$16.5 million. It is an estimate, but it makes the point. This is the tip of the iceberg (page 10). Here is what is really going on. Never mind the \$10 million plus, you have the potential for other economic losses as mentioned earlier. People are not going to spend money if they are angry. Room taxes, sales taxes, and gaming revenue goes down. We need to take a good hard look at this.

I am going to conclude. Long-hauling is a form a theft. I am a certified fraud examiner. I have studied this. It is theft. It is wrong. We need to fix it legislatively. Long-hauling is rampant and it angers the tourists. A flat-rate fare system is going to be an effective no-cost solution.

We still preserve the discretion of the Taxicab Authority, and they can enforce the flat-rate system much more easily. You might hear some opposition to this. I am not sure why that would be, because one of the things this bill does not do is set the actual fare. What we are trying to do with this bill is establish certainty. If people know that when they leave the airport it is going to be \$22 to whatever hotel, they are going to feel a lot better about the situation.

When you get in a cab, and I know this because I drove one, almost everybody stares at the meter, watching it go up and up and up. And it leaves you feeling very uncertain about what is going on and how much money you are going to pay. The actual dollars of it you can debate left and right, but a flat-rate fare solves these problems and I ask your support on this. I am open to questions.

Assemblyman Wheeler:

I am looking at sections 8 and 9, which require the development of a system that is capable of electronic monitoring, in other words a GPS system that reports back to the taxicab company. I am wondering if there has been any kind of cost study on what this is going to cost the taxicab companies to install. And would that not, in and of itself, raise the rates, which would kind of defeat what you are trying to do here?

Assemblyman Martin:

I would have to follow up with the Taxicab Authority on that point. But the whole goal would be to see if there needs to be an expansion of the flat-rate system. Right now it is not contemplated that it would go downtown or east and west. It is really trying to confine the flat-rate fare to the "McCarran to the Strip" ride. As for the cost of the GPS, I would have to get back with you on that. I do not think it is that significant because it is a pilot program, and GPSs are not that expensive. But, I could certainly look into that.

Assemblyman Sprinkle:

Are limousine services covered under the Taxicab Authority?

Assemblyman Martin:

I do not think they are.

Assemblyman Sprinkle:

Short of the GPS system, could you explain to me how it is currently being proven that somebody is long-hauling and then how companies are being fined? Or how you even propose it?

Assemblyman Martin:

The police are actually levying the fines. They are staking out the hotels checking the meters when people get out of the cab, and asking "where did you come from?" The problem with the enforcement arm of this is that the issue becomes one of the tourist not wanting to be bothered with the police and filling out paperwork. They just want to get on with their vacation. But of course, catching everyone that is doing it is very difficult. That is one of the methods, and it consumes a lot of the cost. I know firsthand about this from driving when I come back to Las Vegas. I go out through the tunnel, I live out

towards the west there on I-215, and I am usually followed by a brigade of taxicabs. Of course, they split off and go up on I-15. In this unscientific sample, it is going on all around us. But that is the way law enforcement has traditionally done it; they stake out the hotels, and it is not a pleasant process.

Assemblywoman Carlton:

As you were developing this, did you work with any of the groups that represent the cab drivers on this particular issue? Did you have any discussions with them?

Assemblyman Martin:

No, I actually have not, and I am open to that dialogue. I think I understand where you might be going with this in terms of driver compensation.

Assemblywoman Carlton:

You may not. I just wanted to know if they had weighed in on this beforehand. This issue has come up for as long as I have been around, and I am sure it came up before I got here. I guess my concern, in talking with some of them and the organizations that represent them, the couple of locals that represent drivers, is the time component that is not taken into consideration with a base fare. If it is a Thursday night and the National Finals Rodeo is in town and you try to go off Paradise Road up Tropicana Avenue and go around that way, the time consideration is going to be one thing where it actually may be quicker to go out through the tunnel and up the highway. But, in the middle of the night at 3 o'clock in the morning, going out Paradise and around the other way may be the best. A flat fare does not take into consideration the time of the driver. He or she could work an eight-hour shift and depending upon congestion, have fewer fares. That is my ultimate concern. When you have a time and distance model it balances it out for the driver on that side, not necessarily the other side. I think that is an important component that they should be able to weigh in on. This will be their livelihoods that you will be affecting.

Assemblyman Hardy:

My question is along the same lines as that of my colleague from the south. I have driven both of those routes myself, living to the south in Mesquite. I have been through that airport hundreds of times, and over the years, not one time in my experience, and I am one of those guys that tests every direction I can go, not one time has it been quicker to go down Paradise and up Tropicana or Flamingo Road. It is a faster route to go around there. In consideration of that, I might be foolish for taking time over money sometimes, but would it not be better to have a different type of philosophy? Going into New Orleans those taxicab drivers give you the option of saving time or saving money. There are different routes and the taxicab drivers know the

times of day and what happens within those communities. Sometimes I am more hostile waiting in traffic than I am spending a few extra bucks to go the long way. In consideration of that, maybe that is something that should be done. And maybe it should have been done a long time ago with taxicab drivers and their occupants.

Assemblyman Martin:

We could get into a whole discussion of time and distance and people's perceptions of it, but the fact remains that we have a very serious problem. This is complained about all the time to the hotels and to the Taxicab Authority. Obviously, I could have filled up Nevada Electronic Legislative Information System (NELIS) with article after article about the long-hauling problem. That is not to say, and I will jump back to Assemblywoman Carlton's point because it is related to your question, that there are not other ways to handle peak periods. You could have a not-so-flat-rate-fare. You could have the surcharge of \$5, or whatever, between the hours of 5 p.m. and 10 p.m. There are ways of handling that, and I am certainly open to that discussion. But the whole point is that, based on normal speed limits as we projected with MapQuest, at 6.5 miles versus 3 miles you would have to be moving very fast to make up the distance. It is a distance-based fare. There are a lot of ways that metered rides can be manipulated, but that would probably be beyond the scope of our discussion here.

Assemblyman Paul Anderson:

I certainly recognize that there may be some bad apples out there who are potentially long-hauling, and probably are. I worked in the industry for a little while, not as a taxicab driver, but as a tour guide. I would take folks from the airport to hotels, and I did that for several years. My thought is, and it was already brought up, maybe you should talk to industry, because they may have some good ideas about resolving the issue. It certainly gives them a bad name if this is going on. If they get caught doing it, obviously it gives their drivers and their companies a bad name. But I know that there is technology out there. In fact, Frias Transportation Management has a technology that is cloud-based. Basically it logs all the cars into the Internet and the rider can download a smart app and get the fare, and a transportation entity is able to regulate. I think the industry itself seems to be trying to self-regulate those portions. I do not know if you looked at those, or talked to industry about those either.

Assemblyman Martin:

I am not sure if this is one of the articles up on NELIS, but I am going to read you an example of just how epidemic this really is. If we were talking a couple of bad apples, 3 percent or 1 percent, I would not be sitting in front of you and we could handle this the way you are probably talking about. And, I will also

point out, with all due respect to everybody, I am really the last one who wants to regulate business in this manner, but, we are dealing with an illegal act.

Here is something to consider, here is a driver for Whittlesea Blue Cab/Henderson Taxi saying, "long-hauling is becoming truly epidemic." Then there are some estimates here that drivers put the percentage of long-haul rides at 50 percent or even 70 percent [([Exhibit M](#)), page 2]. I do not know what the right number is. But self-regulation, which I generally like because I do believe in it, is not working. This is an epidemic that is causing damage to our economy. It is giving us a bad name and a bad reputation. This is what motivated me to bring this forward. I did not really feel it was appropriate addressing it to the drivers and to the companies because that is sort of like saying to the fox, "You are in charge of the hen house." I think at this point we need to be responsible as legislators, and take control of the situation and restore our good name and our economic value.

Assemblyman Paul Anderson:

I think possibly the tool set I was referencing is actually a tool set that is given to the taxicab authorities to regulate from within. That is technology that is being built and distributed, not necessarily for taxicab companies, but for the agencies that regulate them. I do not know if it has been adopted in other cities. I am all for giving enforcement the tools that are needed to actually do the enforcing. I am not sure if they do not have the authority to do flat rates. I know limousines are not part of the Taxicab Authority, but you can get a limousine for a flat rate wherever you are going. Do they have the authority now to make any sort of changes, or can they do the time and distance regulations?

Assemblyman Martin:

The whole point of this bill is to give the authority and require that the Taxicab Authority establish that flat-rate fare system in areas where it is of most concern. It would go on to state that what we have created by expanding our highway system, through the tunnel and through I-215 and up I-15, is a very conducive route for long-hauling. We have created a problem. The intent of this bill is to require the Taxicab Authority to actually set up zones, specifically from the airport to the tourist area. It is not intended to spread, but of course, they will be doing that study with the GPS monitoring, and they can consider other areas, but this is where we are most vulnerable. It is a very high percentage of the problem.

If you get out of the airport and you are going to Henderson or Summerlin, the drivers know that you are a local and you know where you are going. There is a lot lower propensity for long-hauling to happen. You also know the route.

The tourists coming in do not. I have been long-hauled, when I was a tourist to Las Vegas many years ago. My family has been long-hauled. My nephew came in a few months ago and said, "Why do we take the highway to get to the Bellagio?" I had to explain it to him. But somebody leaving the Strip going out to Summerlin went straight out Spring Mountain Road, which is a straight shot and is the route they should have taken. So, this is designed with that in mind, in terms of really protecting the tourists, who do not know where they are. And, as I said [([Exhibit K](#)), page 8], other cities have done this and I think our time has come.

Chairman Carrillo:

Is there any support on A.B. 329 in Carson City and in Las Vegas? [There was none.]

Now we move to opposition on A.B. 329 in Carson City. [There was none.]
Now Las Vegas opposition on A.B. 329?

Mark James, President and Chief Executive Officer, Frias Transportation Management; President and Chief Executive Officer, Frias Transportation Infrastructure; Member of the Board, Livery Operators Association of Las Vegas:

I am the president and chief executive officer of Frias Transportation and its seven transportation companies, including five taxicab companies regulated by the Taxicab Authority. I am also one of the founders, president, and chief executive officer of Frias Transportation Infrastructure (FTI), which is a company that is developing infrastructure specifically for regulators of for-hire vehicles and our industry. I would like to talk about our industry in just a moment. I am also a member of the executive board, of the Livery Operators Association of Las Vegas.

I am here today speaking in all three capacities in opposition to A.B. 329. I think you are going to find fairly universal opposition from our industry to this bill, and to the policy within it. I am authorized to tell you specifically that the opposition I express today is shared by my competitors in the person of Bell Transportation, which operates Whittlesea Blue Cab/Henderson Taxi, and George Balaban who owns and operates Desert Cab. I know that some of my other competitors in the industry are here in the room today and are going to testify in opposition to this bill.

The reason we are all in opposition to this bill is that this is a failed policy. It is not, contrary to what you have heard or what has been suggested, a policy that has taken root around the country. Rather it is a policy that has been experimented with in various jurisdictions throughout the country and

throughout the world and has been dismissed as being unfair and of dubious effect. There is not a way to create a fair flat rate from McCarran Airport to various locations, either on the Strip or other tourist or business destinations in Las Vegas, because they are different distances from the airport and they are subject to different routes to reach them. Therefore you cannot have a flat-rate policy developed by the agency. What you have to have is something akin to a zone policy developed by the agency, so that you can approximate fairness in the time and distance of the various locations upon which you are trying to place a flat rate.

Zone policies have been experimented with and implemented by jurisdictions such as Washington, D.C., which has a robust taxicab industry, and other places around the country. Virtually all of those locations have repealed those laws and implemented taximeters. The reason they have is that taximeters are the most fair way to charge for a ride, because what is involved in providing this service is the time and the distance. Taximeters have been in use and operation throughout this country and the world for such a long time because they are the fairest way.

We understand that there are allegations of abuse and long-hauling within our industry. We acknowledge that abuse and long-hauling occurs within our industry, and I would say that virtually every taxicab company in Las Vegas has had this problem to some degree. Our industry takes this problem extremely seriously. We appreciate the Assemblyman reminding us how important it is to provide a fair service and a good impression for Las Vegas, as the first impression many people get of Las Vegas is from our taxicab industry. Virtually all of the companies, mine and those of all my competitors, make long-hauling something that is a firing offense, subject to discipline up to and including termination, when it is determined that it has occurred. We address all long-hauling complaints made to us individually and we take them extremely seriously. In almost all cases, if we believe that there is a basis for a claim of long-hauling made on the spot or in a letter or an email subsequent to someone's visit to Las Vegas, we refund the money and investigate the offense. We realize that this is something that cannot occur; this is not a reputation that Las Vegas, or the taxicab industry of Las Vegas, can countenance at any level.

So we have, up to today, been very proactive in attempting to enforce the rules and make sure that long-hauling and abuse of the meter system do not occur. There is a solution to the long-hauling problem, at whatever level it might be occurring in Las Vegas. Again we acknowledge that any long-hauling is too much, because it is a fraud and it is something that is completely unacceptable. The solution to it is not to turn and go backwards to failed policies that have not worked in other cities, and that we know will not work in Las Vegas. It is

to implement technology, as Assemblyman Anderson noted, to make sure that we are doing everything to prevent meters from either being tampered with so that they do not fairly calculate a fare as enacted by the jurisdictional body, in this case the Taxicab Authority, or to insure that if long-hauling does occur with a meter that has not been tampered with, that we can police it, on the spot in real time if possible. And, we will have a database from which complaints can be fairly and effectively investigated, and this practice can be stopped for good.

At this point, having expressed the sentiments of my company and, I believe, my industry as embodied in those organizations I referred to at the beginning, I would like to talk to you about what we are doing as an industry, as this technology company that I and others at Frias have begun, and as a regulatory body. I think that there is something prescient and beneficial in this bill in sections 8 and 9. I do not know whether the sponsors of the bill are aware, perhaps they are, but the pilot program referred to in these two sections to be implemented by the Nevada Transportation Authority and the Taxicab Authority has, in fact, already been considered and initiated. A vote has been taken by both of those agencies to adopt a pilot program with the software that our company, FTI, is developing.

The name of that software is *RideIntegrity*. This is a cloud-based system that utilizes existing GPS devices, either in credit card processing machines or digital dispatch machines, or other in-vehicle devices that exist today. Or, if there is no such device within the vehicle, it utilizes a patent pending onboard diagnostics (OBD) device that we have developed. It goes into the OBD-II port of the vehicle's computer, extracts information from the vehicle, and sends it by telemetry. This includes location, distance, speed, and other information relevant to regulatory investigation. It takes this information and it provides connectivity of all the for-hire vehicles in a regulated jurisdiction to a cloud system. That cloud system provides both real-time analytics and a methodology for regulators to have the information presented to them on a dashboard screen through an Internet connection, to be looking at what is actually happening within a jurisdiction in real time. It is also a means to collect the data, what you probably have read about as big data, because it is so much data. This system hits the car between every two and six seconds, gathering information about the car that is presented on a dashboard screen for the regulator. It is also available to the taxicab operator, and extremely important for your purposes, it is also available to the taxicab passenger.

The *RideIntegrity* system includes a handheld smartphone application that can be downloaded by a taxicab passenger when they come to a jurisdiction where *RideIntegrity* is up and running under the regulatory auspices. They can then have connectivity with the vehicle they get into. When they enter the vehicle,

they can bring up the taximeter information and the real time information about what is happening with that vehicle on their phone. In the future we are going to offer a service where taxicab passengers can actually opt in or out of different rides based upon traffic conditions that are available to them through the traffic information available through the system. Then there will be no doubt about whether the taxicab passenger indeed wanted to take a longer in distance but shorter in time route. This system has been approved to be piloted by the Taxicab Authority and the Nevada Transportation Authority on a statewide basis in Nevada, and these pilot programs will be getting underway in the next few months.

The *RideIntegrity* system has been adopted by the San Francisco Municipal Transportation Agency (SFMTA) in an action last week and the week before, wherein they considered a request for information from a number of companies to provide them a system like this, to deal with their specific regulatory and taxicab industry issues. We were one of 14 respondents and we were selected as the company to provide this system to San Francisco. We negotiated and have executed a contract with San Francisco to demonstrate the system for regulation of all taxicabs within that city. In a demonstration project over the next six months, and then to enter into a year-over-year, four-year contract to provide the regulatory system to the City of San Francisco.

In San Francisco I am sure they have long-hauling and other issues also. But, like the local nature of this industry, their problems are somewhat different. They have difficulty getting taxicabs to serve certain areas of the city, and they have a glut of taxicabs in other areas of the city. What the *RideIntegrity* system is going to provide to San Francisco is a means for regulators to know where all the taxicabs are and be able to effectively use technology and implement policy that will ensure that taxicab service is fairly allocated across the city as one of their intermodal forms of transportation. We believe that when this system is implemented in Nevada, it will provide the same types of benefits, in addition to providing regulatory tools necessary to eliminate the long-hauling problem.

We are in discussions with the New York City Taxi Limousine Commission (TLC), and we believe we are well on our way to beginning a demonstration program in that city. We will be presenting the *RideIntegrity* system formally throughout the world and we are doing that right now. In the second week in April we will be presenting it to 20 European countries at a convention in Geneva, Switzerland. All of these jurisdictions are very interested in a system like this.

The interesting thing about it is that a lot of the tools that *RideIntegrity* provides to a regulator to address things like the long-hauling problem, are tools the

taxicab companies have had for a long time: GPS location, digital dispatch systems, real-time taxicab information, and credit card processing systems. A lot of these tools exist. Unfortunately, the tools have not been put together and put into a system that is available to regulators. When we introduced this system it got a very warm reception from regulators. We first introduced it at the International Association of Transportation Regulators in Washington, D.C., this past November.

One final thing I would like to tell you about the direction this industry is going in utilizing technology to provide regulators of the industry with the tools to make sure that the industry is fair and provides good transportation to the public. At the conference in November in Washington, D.C., also present were representatives of the National Institute of Standards and Technology (NIST) and the National Conference on Weights and Measures (NCWM). They also presented at the conference and made it known that the standards for taxicab meters that are in *NIST Handbook 44* of the National Conference on Weights and Measures are very outdated. They are in need of being updated so that taximeters can both implement and accommodate the new technology that is available to make them better, safer, and less subject to abuse. Shortly after that conference *NIST* appointed a national working group on taximeter standards. That group is a group of public officials with two representatives from industry. One of the representatives from industry is from Centrodyne Inc., the largest manufacturer of meters in the United States, and the other is from our company FTI. This national working group will be rewriting the standards for taximeters in our country. The way our country works is that taxicab industry and meter standards are locally regulated, but in most jurisdictions around the country the local jurisdiction or the state simply adopts the *NIST Handbook 44* standards for taximeters by statute. Nevada is different. Nevada does not reference or adopt those standards for taximeters. They do for other things but not for taximeters. In Nevada our legislators write the standards for taximeters. In the future this system, *RideIntegrity*, will be a system that will be a permissible form and, we believe, the most predominant form of metering taxicabs in the country after it is adopted by the NCWM. We will be coming before you at that time to amend Nevada's law to allow this type of meter to be used in Nevada. We made a change in the statute last session that allowed for electronically encrypted seals for taximeters as an alternative to physical seals.

The changes to accommodate cloud-based taximeter calculations, which are in a remote server and completely unavailable to anybody to try to tamper with, will require additional change in the law in Nevada. We would suggest at that time the best thing for Nevada to do would be to adopt the NCWM standards for taximeters, since they will have been updated and will accommodate new

technology. I appreciate your patience in listening to these things that are happening in our industry. I appreciate the opportunity presented by this bill to tell you what we, as members of the transportation industry, are doing and what some of us are doing specifically to offer these technologies to regulators. I would close by saying that I think that Nevada would be doing an about-face, a 180 degree turn backward, were they to consider and implement or require the regulator, in this case the Taxicab Authority, to consider and implement flat rates or zone rates, because they do not work. Even if you do have a zone system or a flat-rate system, someone on some ride is paying more than they should pay, and someone on another ride is paying less than they should pay. In either circumstance it is unfair to either the passenger or to the driver. So, meters are the best way. We understand that they are subject to abuse. We realize that this happens in our industry and we take it extremely seriously. We intend to do everything possible to stop it and we think the route to that is the implementation of technology.

Assemblyman Healey:

My understanding is that in Washington, D.C., they had the zone form of pricing, and I believe they stopped that recently. Is that the case and do you know why they have discontinued the zone pricing?

Mark James:

Yes, that is the case, and they discontinued it because it was an unworkable system. They were constantly changing the zones and trying to make them more fair, but there really is not a way to make a zone system or a flat-rate system fair. I did not mention it but since you bring it up, New York has had similar problems. They do not have flat rates, but they do have a different zone, a suburban zone, and there has been press recently about it. I think it was over a quarter of a million people that had been overcharged by the drivers implementing Rate Code 4, which is for a suburban zone outside of New York City, inside the city where it was not legal. They are working very diligently, the TLC, to stop that problem. But anytime you implement zone-based fares or flat fares you have just as much potential for abuse. And, worse yet, you are building unfairness to the taxi passenger and to the driver into the system. That is why we think it is not a good way to go.

Assemblyman Hogan:

Can you give us a better idea of what the time factors might be with respect to this new hoped-for technique? Is this something, just to try to estimate it, that could be ready for application and use within two or three years, or would it be longer than that? Do we have reliable ways to be sure we can be addressing this serious problem in the very near future?

Mark James:

Our system is built. It is operating on servers in various parts of this country, and it is in test phases right now. The pilot programs that have been approved in Nevada and the demonstration project that is a part of the San Francisco contract are beginning immediately. In San Francisco, we have agreed to a phasing that has this system complete the demonstration of its efficacy by the end of this summer. At that time, under the separate regulations that they passed to implement this project, we will be implementing this system fully for all taxicabs in San Francisco. All dispatch companies providing dispatch services in the City of San Francisco and all e-hailing companies providing e-hailing applications in the City of San Francisco will be required to integrate with the *RideIntegrity* application programming interface, and provide these services through this system that will be administrated by FTI under the auspices of the SFMTA. What this means is that we are obligated by more than just the Nevada jurisdictions to have this system up and running within this year. This is not a solution that is way down the road two or three years, as you suggested. By this time next year we can have it up and running in Nevada providing a multitude of regulatory services, including the deterrence of long-hauling. We think it is a very near-term solution.

Chairman Carrillo:

I had a question in regard to what you mentioned about drivers who have had a complaint made about them. Do you have a rough estimate as to how often this does happen? I know you are just one of many cab industries and that you represent quite a few different cab companies under Frias Transportation. You may not have this number, or you may need to generalize as to what we are looking at monthly or yearly, but how bad a problem is this long-hauling, and how many complaints do you actually get in reference to it?

Mark James:

I believe most sincerely that the vast majority of drivers who work for both our company and our competitors are honest and not out attempting to find an opportunity to long-haul a passenger and charge them more than is necessary to get them where they have to go, but the problem does happen. This industry does somewhere around 29 to 30 million trips every year in the Las Vegas Valley. I think last year that the number of long-hauling complaints that were handled by the Taxicab Authority was under 1,000. That does not mean there are not more instances where long-hauling occurs and a complaint is not made, or otherwise does not come to light. As I said earlier, we have not focused empirically on determining the exact number of long-hauls that occur, because any of it is unacceptable to both myself and my colleagues in this industry. We take the problem extremely seriously and we are going to make every effort possible to make sure that it does not happen at all in our city.

Marc C. Gordon, General Counsel, Yellow Checker Star Transportation:

I am the general counsel for Yellow Checker Star Transportation, which consists of three taxi companies in southern Nevada. We operate approximately 26 percent of the taxis on the road in southern Nevada. We oppose [A.B. 329 \(Exhibit N\)](#). Representing our company is Mr. Bill Shranko, Chief Operations Officer. I am honored to say Mr. Shranko has been in this industry for 30 years, and probably knows as much as any individual and is as qualified to speak about this issue as anyone in southern Nevada.

Bill Shranko, Chief Operating Officer, Yellow Checker Star Transportation:

Mark James has done a very good job of presenting, so I will not be redundant; however, I do want to bring attention to the Washington, D.C., situation. This appeared in an Associated Press story when it was really a problem: "Visitors and residents alike have grumbled for years about the lack of meters in district taxis, saying that the zone system is confusing and vulnerable to cheating. Now relief may be at hand for the only major city in the U.S. without taxi meters." The only way to handle that system of flat rates and zone rates is standardized meter fares, which simply means every passenger that gets in a cab in Clark County pays the same rate for time, the same rate for distance. It is an absolute. In 2011 the Taxicab Authority asked our company to do a study, and we put in 500 man-hours studying flat rates specifically.

One Assemblywoman mentioned earlier, and I really appreciated what she was saying about some of the people she represents, drivers get a really bad rap. In 2011, when we did that 500 man-hours, what people do not realize is it was the same year that Las Vegas received the highest industry rating by worldwide hotel providers for the second year in a row competing for best taxicab service in the United States. We beat out New York City, Los Angeles, San Francisco, and Chicago. So, our drivers and our companies, many times because of some sensationalism, get a bad rap. To the Assemblyman who asked about how many long-haul citations or penalties we have, our company does about 30 a month, which is excellent for the industry. We do take disciplinary action, with contract availability, and we do not fool around. I know without question that Frias Transportation, Whittlesea, and we, who make up the overwhelming majority of the cabs on the street, well over 60 percent, have wonderful enforcement techniques. We teach our drivers to make sure that even if you get a dispute, and you will get disputes, make it right with the customer right then, give access. I drove for nine years, and there will always be disputes. Nobody knows driving like I do, believe me.

What we, the industry, have done to halt it is we have already installed signs. McCarran Airport did that on their own at our request. We have required installations of the taxi passenger bill of rights. This goes in every cab in the

industry, where you can see it, and it tells customers what they can do if they have any complaints. There is a hotline that has been established. We have increased, and we want to increase, fines for drivers convicted of long-hauling, and create long-hauling databases, which will also help the problem.

Another Assemblyman brought up a good point about how difficult it is. When we did our flat rate investigations, we found that the variance in the same ride at different times of day can mean a ten-minute fare, for example, going from Tropicana Boulevard to Harmon Avenue, which is where the Hard Rock Cafe is, can take ten minutes one time and an hour later take 45 minutes. A driver does not want to waste 45 minutes in traffic for a good ride and let the meter run all day, everybody gets frustrated.

Chairman Carrillo:

Mr. Shranko, we do have your testimony uploaded to NELIS and so as not to duplicate material, can you wrap things up?

Bill Shranko:

I have just a quick correction for Assemblyman Martin, diversion was never long-hauling. It had nothing to do with long-hauling. Diversion went on for many years when one driver would take a shorter route to get a bigger tip from a topless bar, wedding chapel, or a restaurant. It had nothing to do with long-hauling.

Chairman Carrillo:

Anyone neutral on A.B. 329 in Carson City? [There was no one.] Neutral in Las Vegas? [There was no one.] We now have a closing statement.

Assemblyman Martin:

I do not know really where to begin. That was the most naked defense of an industry I have ever heard. There is an epidemic problem. Yes, I am open to dialogue, and I think we should be open to dialogue about effective solutions. The technology for instance must be very expensive. My question is, who is going to monitor it? Are you going to have the cab companies monitor the technology? That is the fox in charge of the hen house. That does not work, so that would leave the Taxicab Authority or the police, and that would be a very expensive proposition. It does not mean we should not explore the idea. I am all about technology and I think it is a great thing.

I really believe we have a very unique situation with McCarran Airport being in such close proximity to the Strip, I think it is almost ideally set up for a zone system. You can have more than one zone. That is okay. A north zone and a south zone would work. But I have got to correct something about the

Washington, D.C., zone system. I owned a business in Washington, D.C., for many years, and on that point I absolutely agree, it was messed up. But it did not involve the airport, it involved the zones within the city. It favored people who worked and lived on Capitol Hill. You could go across town for \$3, but if you went half that distance, it might cost you three times as much. There were issues, and I acknowledge that, but that was a completely different situation. It does not apply here.

With all due respect to our friends in the taxicab industry, I know they are a very powerful industry and I must have my head screwed on less than tightly to take them on as a freshman Assemblyman, but it is so egregious. I heard so many complaints when I was walking door to door, from my own family, and it has happened to me. This is not an isolated situation. This technology may be useful in the future, and if I go back to the question of who is going to enforce it, what is the cost of the technology versus coming up with a simple commonsense solution. We can address the issues of increased traffic flow and so forth, but we have an epidemic of consumer complaints at these hotels, arguments breaking out when people arrive. I do not think that is really great for business. That is what motivated me to bring this bill forth. I would love to open a dialogue with Mr. James and whoever else, but we need to do something. We need to do it now, and I am asking for your support on this bill. We need to pass this legislation to restore the faith of our tourists, our lifeblood, and our economy. We are talking about a very small area that we can negotiate on and then we can take it from there. Thank you for the opportunity to present.

Chairman Carrillo:

Thank you. Of course that sounds good that you want have that dialogue with the taxicab companies, and I am sure they want to protect the tourism in our state. Thank you.

We will close the hearing on A.B. 329, and open up the hearing on Assembly Bill 177.

Assembly Bill 177: Revises provisions governing the use of safety belts in taxicabs. (BDR 43-994)

Michael Sullivan, representing Whittlesea Bell:

With me today is Mark Trafton, Vice President and General Counsel, Whittlesea Bell. He is going to talk to you a little bit about Assembly Bill 177.

Mark E. Trafton, Vice President and General Counsel, Whittlesea Bell:

Whittlesea Bell companies consist of, among other companies, two taxicab companies in Las Vegas and one taxicab company in Reno. I have been their lawyer since 1999. When I was hired in 1999, my one and only task was to handle all the defense of the personal injury cases that came our way. As you might imagine, there were quite a few of them and there still are; it is a big part of what goes on inside the taxicab world, defending against personal injury lawsuits. That is obviously the subject of this bill here today, and I want to talk to you generally at first and then get into the specifics very quickly. In the personal injury lawsuits, not only do I represent the companies, I represent the drivers too. The drivers are, in almost every case, named individually. As part of the process, the company owes the driver the duty of a defense and indemnity. Defense means they are going to have a lawyer whom they do not have to pay who is going to defend them as an individually named defendant. Oftentimes these personal injury lawsuits do not make it to the courtroom until years after the accident. The driver no longer even works for the company oftentimes, but the driver has to come into the courtroom for a week or two weeks at a time to defend themselves because they have been named individually. So, it is a real hardship on the drivers.

There are three different ways these personal injury cases get handled. One of which is that they settle. Another is they get resolved through arbitration, and Nevada has a mandatory nonbinding arbitration program. A lot of cases get resolved through that program. Finally, a small minority of cases actually go all the way to a trial, in front of a judge and a jury oftentimes.

I have an example I will give you now that happens either in front of an arbitrator or in front of a judge and a jury. The driver comes in to defend his or herself and I am there representing them and also representing the company. At a certain point in time, the judge looks at me and says "Mr. Trafton, call your first witness," and I call my driver to the witness stand. I say "Ms. Jones, please take the witness stand." She walks up to the witness stand. And what is the first thing that happens when somebody testifies in a court room? The judge asks the clerk to swear in the witness. The clerk says something like this, "Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?" I emphasize the words "the whole truth." It is very important. That oath has been around for over 800 years. We stole that from English common law, and we have used it ever since because it works. Why do I emphasize the whole truth? The reason why I emphasize it is that what we want our juries, judges, and factfinders—whether they are arbitrators, judges, or juries—to consider is all the facts. We do not want to hide any facts from them. We want to give them all the facts because we trust our system.

It works. It does not always get it exactly right, there are problems with it, but I contend it is the best system in the world.

I can speak to this bill from personal experience. I have had hundreds of cases that I have litigated in one way or another to some resolution. The fact that you cannot talk about a passenger in a taxicab who does not wear a seat belt is a real issue that we deal with as lawyers that represent taxicab drivers and taxicab companies. We deal with this day in and day out. Because of the way that this statute reads, I will submit to you that the judges basically tell you before the trial starts, "You better not go anywhere near discussing the fact of somebody wearing a seat belt or not wearing a seat belt, because I will declare a mistrial." I can answer questions but I will not belabor the point because the language gets technical in there. The practical sense is that you stay away from any evidence of whether somebody chose to wear a seat belt or not. That is ironic when you get back to the oath that the witness takes to tell the whole truth. So, if the driver gets up there and I say, "Ms. Jones, please tell me about the accident and what happened," the first thing she wants to say is, "We got into this car accident and my passenger flew into the windshield because she was not wearing a seat belt." This would be a mistrial. So, I have to prepare the drivers. You cannot talk about the seat belt. You cannot even mention it and we cannot go there. It is a real handicap that taxicab drivers and companies have when they go into these court cases, and I submit to you that it is not fair. I will give you some examples of why I say that.

I am going to walk through this bill very quickly and compare it to the current law. As the law is written now, it has four purposes. Number one, to require that passengers wear seat belts in taxicabs. Number two, subsection 2 of the current law talks about the citation that can be given to a passenger if they are not wearing their seat belt. Number three, no evidence of one's failure, "one" being a passenger in a taxicab, is allowed concerning their negligence or causation of their injuries if that person fails to wear a seatbelt. Again, there are some very technical definitions of those terms and I will be happy to explain them if you would like, but the practical sense is, you cannot talk about somebody not wearing a seat belt.

Finally, with law the way it is now, the taxicab companies have a burden to post placards inside the taxicabs telling passengers that Nevada law requires them to wear a seat belt, so buckle up. We have signs in all of our taxicabs. We are required to do that. You and I in our personal cars, we do not have that burden. And, on a side note, you and I in our personal cars, if our kids or our kids' friends want to get in our car and not wear a seat belt we can say, "You are not riding in my car unless you buckle up." Taxicab drivers cannot do that. They have to transport that person even though they choose not to wear a seat

belt against Nevada law. There is a Nevada regulation governing taxicab drivers, and the one and only reason they can refuse to transport a passenger is if they are in fear for their own physical safety, so they are required to transport that person who has chosen to violate the law.

Again, there are examples of other cases I have tried where I like to characterize somebody's decision not to wear a seat belt as their conduct. Right? It is their choice. We all have a choice in life about how we want to do things, and we have to pay the consequences depending upon the choices we make. I tried a case where one of our taxicab drivers made a mistake and ran into a pedestrian. The pedestrian sued the driver and the taxicab company. Well, the evidence showed that the pedestrian was not paying attention and was walking backward. Now was I able to get that into evidence? Was I able to introduce that to the jury so they could consider the conduct of that pedestrian walking backwards? The answer is yes. The jury considered my driver, the taxicab driver, and they compared it to the conduct of the pedestrian the driver hit and injured. That is fair. Both of those people and their respective conduct should be considered. That is all we are asking by the introduction of this. Let us be fair. Let us look at the conduct of the driver, absolutely. We want you to look at the conduct of the driver and we are not shirking our responsibility. We accept full responsibility for the actions of the drivers when they are working for the taxicab companies. But, why do we not consider somebody's choice not to wear a seat belt, particularly when it is the law that you have to wear a seat belt? If somebody is drunk behind the wheel driving, that comes into evidence. If somebody is talking on their cell phone or texting while they are driving, that comes into evidence. Why is it that when somebody chooses not to wear a seat belt in a taxicab the jury cannot hear that? I submit to you there is no good reason and no good answer to that.

The answer that you are going to hear in a few minutes is that if you allow that testimony before a jury it is going to prolong trials because we are going to need to have more experts come in and talk about the forces involved, what would have happened if somebody wore their seat belt versus not, the engineering, and those types of things. There is a particular type of expert who comes in cases that I have handled where forces are involved. That expert is called a biomechanical engineer. I will tell you that in the cases I have handled through the 14 years I have been representing taxicab drivers and the companies, in cases where the injuries are catastrophic, and even, unfortunately, deaths, there are all kinds of experts on those cases anyway. Allowing testimony regarding whether a seat belt was worn or not is not going to prolong a trial like that. Trust me, there are tons of experts on both sides of the case because there is a lot at stake. But, in the minor impact cases where we are talking about mostly soft tissue injuries, there is a jury instruction that

I have had read in every case to the jury that basically says, you are allowed to use your common sense as jurors. When you go back there to deliberate do not forget about your common sense. In fact, true story, I had a case, the jury went to deliberate and they got to write questions down and send them back out to the judge. I come into the courtroom and the judge says we have a question from the jury: "Was the passenger wearing a seat belt?" And guess what the judge says? "You are not allowed to consider that," because of this law. The jury wants to know, and I have talked to jurors afterwards. They are very curious about why this or that was not talked about during the trial. This happens all the time with the seat belt issue. It is not fair. We need the whole truth to be considered, all the facts.

The only other point of any substance that I think you will hear in opposition is that we are trying to get the focus away from the driver's conduct. We are not. We want the jury to consider the driver's conduct. Oftentimes I will go into trial and I will say, "We admit that we were negligent. We are now contesting whether or not the medical treatment was reasonable, whether or not all of the injuries were due to this accident." We are asking not that you take away the spotlight on the driver, but that you open the whole curtain. Let all the facts be discovered. Let the jury look at all the facts. Let the jury consider the whole truth.

Assemblyman Sprinkle:

If there was some way to change it so that either the passengers are mandated to be wearing the seat belt or the drivers are given the ability to say, "This is my cab, this is a safety issue, you are not allowed to be in my cab if you do not have the seat belt on"? Would that not then take this away completely, and it would no longer be an issue, so you could get back to the fault of the accident?

Mark Trafton:

I have thought about that, a lot. I have talked to my colleagues in the industry, and we have come to a unanimous conclusion, and I think you will hear the others talk about this. Can you imagine the disputes that will happen at the airport in Las Vegas if the driver says "I am not transporting you"? It is going to create chaos if there is an argument about whether or not you have to wear your seat belt, because as you know these transactions happen very quickly and we are concerned that it is going to create more problems if we give the drivers that ability to say to the passenger "Either put on your seat belt or I am not transporting you." Practically, we see some real problems with that. Although it is not something that I think we should take lightly; I think it is a good option and we are exploring that. But the simplest solution is require people to wear their seat belts because it is the law, and if they do not wear them, they have broken the law. Why should the jury not know that somebody

chose to break the law, if that is the party suing the driver and the taxicab company? It is a legal issue, but it is almost more of a commonsense issue. I mean somebody deliberately chooses to break the law and we cannot talk about it?

Assemblyman Sprinkle:

I appreciate that. I do not know if I can imagine those disputes at the airport because I can think of other ways, or other situations. But, my question to you, especially as a lawyer, is does not the law say, at least in private vehicles, that the operator of the vehicle is ultimately responsible for who is wearing a seat belt in their vehicle? So, if they were to get pulled over for something else, because I understand it is the secondary offense, it is the driver who ultimately would get the ticket or fine for the other people in their vehicle not wearing seat belts. Is that correct?

Mark Trafton:

Do you mean in private vehicles, not taxicabs? Okay. It is my understanding that you are right on that. Yes, I believe that is correct.

Assemblyman Hambrick:

A lot of this is an education for a lot of us, and I seem to remember we had similar bills in the past, so this is more of an educational question. Is there an absolute that you can never bring up the fact that the passenger was not wearing a seat belt? At some point, attorneys dance around with legal language all over the place, but is there an absolute block on this thing? You talked earlier about common sense and we understand that, but let us cut through the chaff and get to the real issue.

Mark Trafton:

I believe it is an absolute block. I have never seen a situation where a judge says in trying to reconcile with this law, "here is a situation where you can bring in somebody's failure to wear a seat belt." Because the language in this law prohibiting the introduction of that evidence is very broad, causation and negligence, that basically covers a personal injury lawsuit. I believe it is an absolute block.

Assemblyman Hambrick:

We will follow that for a moment. So, at some point the passenger will be testifying. You are limited to what you can ask. I understand that. But if the passenger then makes a statement, can you then not use that statement for impeachment purposes later on?

Mark Trafton:

I am trying to think if I have ever had a passenger make that comment about their seat belt. I do not think I have. But I think the answer would be that I would not be allowed to use that against him or her at a later point.

Assemblywoman Spiegel:

I have not been a cab rider for some time, but I know that in the past and especially in other cities, I have been in cabs where the seat belts actually have not worked. You kind of fish around and they get stuck behind the seat and you are in the cab and the cab is moving and you are trying to find it and you cannot find it. Can you speak to what would happen if a passenger says there was not a functioning seat belt? Conversely, we also have a large overweight problem in this country with a number of people who cannot wear seat belts without extenders because they do not fit. What would happen in those kinds of instances as well?

Mark Trafton:

If this bill is passed, then the discussion regarding seat belts is now open. That cuts both ways. Because, yes, I can talk about somebody's choice not to wear a seat belt, but the plaintiff's lawyer, the lawyer representing the injured party, can also talk about what you raised. The plaintiff can get up and testify, "They can talk all they want about what the law is regarding seat belts, but I could not find my seat belt." We recognize that it cuts both ways and we are willing to accept that because, again, we want all the facts before the jury. I see a similar type of answer concerning the overweight person. If we as a company have not made sufficient accommodations to handle whoever is coming into our vehicles, in particular with respect to seat belt issues, now the discussion is open. The overweight person is going to be able to testify and say, "Look, that seat belt did not work for me, and I am a paying customer." So it is wide open, it can cut against us.

Assemblywoman Carlton:

I want to take this back a step, and I apologize if I am missing something, but I have heard this a couple of times in my history. I think I need to take it back to square one about a cab, a cab driver, passengers in the back seat, and you have an accident and someone is hurt. What in the world does a seat belt have to do with the fact that somebody hit the cab, or the cab hit somebody? To me that is totally ancillary to the whole thing. That has nothing to do with the accident. The court case is about dealing with the accident and the damages caused by the accident. Am I understanding you to say that someone is at fault because they got hurt because they were in the wrong cab at the wrong time? I guess I am just not understanding why you are trying to blame the person who got hurt and you want to be able to deny their claim for their medical costs.

That is what this boils down to. This is about when somebody gets hurt in the backseat and wants their medical bills paid, and all the other things that go along with that type of case.

Mark Trafton:

I think even the opposing side would agree with what I am about to say regarding the "reasonable person standard." We all walk around in everyday life in the eyes of the civil justice system with a responsibility to act reasonably. If we do not act reasonably, then under the eyes of the law we can be held accountable. We have to be judged by whether we acted reasonably or not. I think the opposing side will agree with that general statement.

Assemblywoman Carlton:

I do not think you want to go there, but that is okay.

Mark Trafton:

No, I have been there, and I have talked to opposing sides and they do agree with that. I am not trying to say that the accident was not the cause of the injuries when, for example, two cars crash into one another. I am just saying that I want you to consider those facts. Those are obviously very important facts. I want you to consider the conduct of each of the drivers involved, but you also have to consider the conduct of the injured person. That is because that is the civil justice system; everybody has to act reasonably. So the only question I want asked is when that person chose not to wear a seat belt, was that a reasonable decision. If the jury finds that the answer is no, that was not a reasonable decision, then the next question is, did the fact that they chose to not wear a seat belt have anything to do with making the injuries worse, or creating an injury that would not have happened, had they been wearing a seat belt? It gets a little bit more complex if the jury says, "Yes, we think they contributed by not wearing a seat belt. We think they acted unreasonably." That is the standard by which we are all judged under our system. I just want the jury to ask that question and consider it.

Assemblywoman Carlton:

Along the line of me being a reasonable person at this one short moment in time, I would expect every cab to have a seat belt available for every passenger and not to overload cabs. I would expect those cabs to be regularly inspected to make sure that those seat belts were available. But, that is not happening today, and it is not going to happen in the future because people will cry it costs too much money to do it. We do not want to make our cabs have to go through that. So, it seems to me as though this is a way to deny an injured person the right to be able to make their case in court that their injuries were caused through no fault of their own because they had no control over either

vehicle in any way, and they could end up bearing the cost for the medical care. I have been in cabs where there was no way I was going to stick my hand down behind that seat and grab that seat belt. It just was not going to happen. Until the cab companies are ready to make that part of their inspection process, and I am not sure what the cost would be or how they would handle it, I just do not think it is fair to lay the blame on the passenger when they are not in control of the cab that they are getting into.

Mark Trafton:

I absolutely appreciate your comments, Assemblywoman Carlton. The Frias companies and my client's companies have written policies and provide training, instructing drivers that they need to inspect the vehicles every day to make sure the safety belts are working properly and are available, and to verbally inform the passengers above and beyond what the law says that, "State law requires you to wear a seat belt so please buckle up." Beyond that you cannot force the passengers to do it. I know that is the case in my client's companies and the Frias companies.

Assemblywoman Carlton:

I am not talking about you or your drivers doing it, I am talking about the regulatory agency making sure that belts are functioning and available with a regular inspection system set up to make sure that people will comply with it.

Mark Trafton:

I do know that there is a random inspection that is conducted by the Taxicab Authority. They inspect both the interior and exterior of vehicles to make sure that we are complying with things such as having seat belts available. But I cannot tell you how often that actually happens.

Chairman Carrillo:

I do not want to get too far off into the weeds, but is there a set time that cab drivers do a round-about inspection before they actually take their cabs out for the day, or a shift? I am curious about that.

Mark Trafton:

With respect to my client's companies, before every shift they have to go through a checklist to make sure everything is working properly.

Assemblyman Paul Anderson:

I am wondering if you are aware of the original intent of the language, and if there is any historical significance to it. Are there other activities that cannot be talked about? I recognize it was not a moving violation, but what about reaching up and grabbing the driver or something else? I can imagine there are

a lot of things that happen on the Las Vegas strip or in the back of those cabs. Is there anything you are prevented from discussing?

Mark Trafton:

I am going to start with your second question first. In preparation I tried to think of other activities of a passenger that we are not legally allowed to talk about that would be similar, other examples of their conduct. The only silly one I could think of was standing on their head. Would I be allowed to tell the jury that this person was standing on their head when this happened? Yes, of course. There is no law that says I cannot talk about their conduct generally. This is the only example I can think of where I am not allowed to talk about this one specific choice that a passenger makes. Anything else is fair game and the jury gets to consider that. They may say, "That Trafton lawyer is out to lunch if he thinks that caused the injuries. What caused the injuries was running through a red light or whatever," which I deal with all the time. Drivers make mistakes and do things and I am not saying I do not want the jury to consider that. I want them to consider all the evidence. The first question you asked about was the original intent. The only thing I do know is that when this particular statute was enacted, I believe in 2003, I do not believe the language prohibiting reference to seat belts was in it.

Michael Sullivan:

It was taken directly from the private passenger statute. It is the exact same words, which begs the question why is it there? I do not know either. But it was taken directly from that and put into this.

Assemblyman Hambrick:

This is more a question to staff rather than the witnesses. Would it be possible to go back to the original passage in 2003 and see if there is something we can pull that gives some type of legislative intent? I do not expect the witnesses to do that. Mr. Chairman, do you think that would be something we could look at during work session to try to fill in that gap as to why we are here today and what caused it?

Chairman Carrillo:

I believe we can get that information.

Are there any other questions from the Committee members? Seeing that we have no other questions from Committee members, is there anyone in support of A.B. 177 in Carson City first?

D. Neal Tomlinson, Regulatory Counsel, representing Frias Transportation Management:

For the past nine years I have been regulatory counsel for the Frias Transportation companies. They employ about 2,200 employees in Las Vegas through their seven transportation companies, including five different taxicab brands. With me I have Stephanie Edelman, who for 17 years has been a driver for our ANLV cab company. She also served four years as an officer for our drivers' union, the United Steelworkers, and she has a few comments. Also with me is James Jackson who is a partner at Thorndal Armstrong. Mr. Jackson handles some of our outside litigation, similar to what Mr. Trafton does for Bell. We are here in full support of A.B. 177 and we join in the comments and presentation made by Whittlesea Blue and Henderson Taxi, through the Bell Transportation companies.

Stephanie Edelman, Driver, ANLV Cab Company, Frias Transportation Management

Luckily, in my 17 years of driving I have not had an accident, so I have not had to face that situation. The law troubles me. I am fortunate that I drive a van, so the seat belts are over the shoulder and you do not have to go into scary areas of the back seat of the cab. But I have driven a sedan so I know exactly what you are referring to. I say to every passenger, "Please put your seat belts on." Some do and some do not. I always try to make it fun with the kids: "Hey you guys, while we are doing luggage, put the seat belts on." I have had parents actually say, "Oh, we are not going that far; they do not need to wear them." As a parent I find that to be horrible, and that this law says that anyone under of the age of 18 does not have to wear a seat belt. To me, under the age of 18 the law says that they cannot make that decision, and they should be wearing a seat belt. I do not want a baby going through my windshield. I have talked to other drivers and some ask people to wear seat belts. We have signage. For the most part, in my long experience, and I probably do 20 to 30 rides a day, I would say that probably 5 percent of people actually will put on a seat belt. It is mind-boggling. They put them on in their own car I am sure, but they come to Las Vegas and everything in their brain gets left in the airport. I do not understand it. I think it is important, as it has been pointed out, that whenever a situation arises, all of the facts do need to be presented. I try to get my customers to do it, and a lot of time it is to no avail.

James J. Jackson, Attorney, representing Frias Transportation Management:

For the last three and a half to four years I have been one of the chief outside counsels handling litigation on behalf of the various Frias cab companies. I think I can say with confidence that the drivers that I deal with have been just as conscientious as the driver that you have heard here today. I know from my experience in handling their litigation that each driver has to do a daily checklist

going through their cab, and it is a written checklist as I recall. They are all trained to tell passengers that they are to wear seat belts at all times while in a cab. Without belaboring things, because I know we have gone on for awhile, I certainly agree with all of the comments that my friend and colleague, Mr. Trafton, made about the need for this bill and the reasons that juries should get to see all of the evidence. This is not an attempt to avoid liability. This is an attempt to let the jury know all of the facts and factors that came into play in an accident and what may have led to an injury to a particular individual. It will never take away from the conduct of an individual driver. In that regard it would simply allow the jury to understand and know all of the mechanisms, acts, and circumstances that happened. Will that lead to more experts in some situations? It may very well. But I can tell you that in my experience practicing law in Nevada for 26-plus years, experts are always included in a case where there is serious injury because (A) you are going to challenge each side's evidence and proof, and (B) it is simply a matter of practice that you have to do that so you thoroughly prosecute or defend your case. In that regard I do not think we are going to see any real uptick in the amount of expert usage. Also, allowing the jury to consider all of the evidence could actually lead to less court time, less litigation, as Mr. Trafton alluded to. It will push these cases to a quicker resolution because if all those facts are going to be known to a jury, both sides have an incentive to come together and try to resolve a case amicably and early on rather than dragging it out.

D. Neal Tomlinson:

We are in full support of the bill and we thank you for your time this evening.

David Goldwater, representing Desert Cab Inc.:

I am here on behalf of Desert Cab in full support of A.B. 177. I will not repeat the testimony previously given, but please associate the position of Desert Cab with that testimony. Desert Cab asked me to support this bill for a reason entirely separate from the issues of fairness and our strong commitment to providing the jury with the whole truth. Desert Cab supports safety, in particular the use of seat belts. From the 1950s, when the belts were first installed in cars, through the '70s seat belt use was minimal. In 1977 seat belt use was only 12 percent nationwide. By 2008, seat belt usage averaged 83 percent. A large volume of information is available on the National Highway Traffic Safety Administration website about the effectiveness of seat belts and their use. Common sense and Newton's law tell you why. Desert Cab believes that anything that contributes to the public policy of less seat belt usage is bad policy. As seat belt usage rises, good policy dictates that we embrace the science of safety in the knowledge that those that do not wear seat belts add to the public cost, the cost of all of our insurance and healthcare. Allowing juries to understand all the information regarding an accident only adds to personal

responsibility, and in effect encourages seat belt usage. That concludes my testimony other than to respond to previous questions by saying that Desert Cab is also a company whose drivers inspect their cabs, inspect the seat belts prior to use, and is subject to all the Taxicab Authority's random inspections as well.

Chairman Carrillo:

Now we are we going to move down south for support on A.B. 177.

Marc C. Gordon, General Counsel, Yellow Checker Star Transportation:

My client fully supports A.B. 177, and we fully endorse the comments made by the other speakers. I would only add that we filed a position statement yesterday with the Committee ([Exhibit O](#)). In our position statement supporting A.B. 177, we do go into the history of seat belts and the history of this particular issue. We talk about the policies behind A.B. 177, the good sense that it promotes, and we endorse especially what Mr. Goldwater was alluding to just now, which is the idea that safety belts save lives. They reduce injuries. It just makes sense to have this type of law on the books now. One thing I learned in law school, which is pretty common now, is that when the reason for a rule ceases to exist then so should the rule. Many years ago when seat belts came out originally, they were somewhat unreliable, it was a new invention that did not always work. Some people contended that it exacerbated injuries. Over the years that has completely changed. The seat belt has evolved to where it is an absolute lifesaver. We all agree on that. So, that initial reason for this rule no longer makes any sense. Now it should be simply a law on the books, like Mr. Traftman says, that enforces the law. That is all.

Assemblyman Hambrick:

Thank you for the testimony. You were the third or fourth person in support of the bill who talked about how the drivers go through safety checks. I am an absolute believer, but if there is a problem with the seat belt, does that cab not go out and do the cab companies perhaps stress or do maintenance on the seat belts because of the importance of the situation? While they cannot mention it in court, do they pay attention to that seat belt issue over and above perhaps one or two other things.

Marc Gordon:

At our company there are daily inspections of all equipment in the cabs. The taxi driver, like Mr. Trafton mentioned in his testimony, has a checklist that includes seat belts. Everything must be functional or operational before a cab is allowed to go on the road. We have an extra layer of supervisors, that is many supervisors who work each shift at the company and their job is to make sure those inspections are done, done appropriately, and confirmed. It is a very

intricate process and we go through it every shift with every car. When those cars go on the road, the safety belts are operating.

Assemblyman Hogan:

I find this very illogical and, I think, destructive to our trust in the jury system when for no ascertainable good reason, evidence that is available is forbidden to be used. I find that absolutely offensive, and I am surprised. One question I have in exploring for some way to overcome the problem is, do the companies have any rules as to whether they would permit or not permit a driver in an appropriate situation to offer to fasten the seat belt for the person? If that is something the driver is willing to do, is that something that the employers would permit? If it is something that is actively permitted and part of the understanding of drivers now, I would think that I could support the bill. If that is forbidden and it is not possible, then I would have to think about it some more. So, I just wanted to know if there is a policy, generally, on the part of the companies as to whether the driver would be permitted to assist a passenger in fastening the seat belt?

Marc Gordon:

I am sure my colleagues here and in Carson City have their own input on that, but for our companies, we operate roughly 600 cabs every day, 24 hours a day. Every one of those cabs is cleaned before it goes on the road. The drivers are encouraged to help passengers.

I cannot say specifically that we have a policy where they are instructed to fasten the seat belts, but if that were proposed, I do not think our drivers would have any problem with it whatsoever. Anecdotally I know I have heard many stories of drivers going over and above the call of duty to help passengers, and they are encouraged to do so.

David Goldwater:

I was not going to submit this, but I have the Desert Cab passenger bill of rights and number 6 is, "If for any reason you are having trouble securing your seat belt, ask and your driver will provide assistance." I will submit that for consideration.

Chairman Carrillo:

Who is next in Las Vegas?

Sarah Suter, representing Las Vegas Defense Lawyers:

I am speaking on behalf Las Vegas defense lawyers and I also have Loren Young here with me. We are here to give our full support to A.B. 177.

Loren S. Young, President, Las Vegas Defense Lawyers:

I am representing civil defense lawyers here in Clark County, and as Ms. Suter just indicated, we are in full support of A.B. 177.

Chairman Carrillo:

Any questions from the Committee members? Seeing none, I thank you for your testimony. We will move back to Carson City and A.B. 177 for opposition.

Bill Bradley, representing Nevada Justice Association:

We are here to oppose A.B. 177. Before I go into the reasons why we are opposed to A.B. 177, I want to make sure that the Committee realizes that as an organization that supports consumer rights, we strongly encourage the use of seat belts and everybody in our state should encourage the use of seat belts. Where we have a problem is when the bill changes from encouraging the use of seat belts to making a rule of evidence admitting the use or the nonuse of seat belts. So we support and encourage people using seat belts, but when you now start talking about a piece of information coming into a courtroom under the rules of evidence, we suggest that the Committee has to closely analyze what can happen to that potential evidence.

The first thing that has to be said here is this is not passenger automobiles where we offer to give a child a ride. A taxicab is a paid professional, and that changes the duty in the eyes of the law. When you pay somebody, when you put your safety in somebody else's hands to transport you and you pay them, they become known as a common carrier. Quite frankly, I am very surprised that none of the lawyers up here spent any time talking to you about the duty of a common carrier. The law has been, continuously since we were back operating horse-drawn carriages, that if you pay someone to transport you, the law imposes on that person, as a common carrier, the highest duty that exists under the law of negligence in the land.

Now, the passenger in the back seat may not be able to access the belt or the belt may not be functioning. That passenger has what these other lawyers today talked about—"the reasonable man's standard." In general day-to-day activities, we as nonpaid professionals owe each other the duty of reasonable care. But that is a different duty than the duty owed by a professional. What this bill wants to try to do is, even though they are incomparable duties, lower this duty and make these two comparable. Now they want to compare the fact that the professional driver ran the red light or was not paying attention, to the reasonable person's decision in the back of the cab. I appreciate some of the comments from the Committee talking about the unavailability. I really wonder what would happen. Some of the lawyers suggested letting a jury decide. We believe in juries, but the evidence that is

presented to a jury has to be reliable. When the passenger says he could not access the seat belt or the seat belt was not functioning and the driver says the opposite, we want to let the jury decide that. But, we are still comparing different duties, and trying to equate the highest duty in the land to the reasonable man standard can be confusing for a jury.

Now, on the issue of accessibility and operational ability, I very much appreciate it, and I go back a long way with Senator James and several of the people who have been here and testified today. The accessibility is one issue, and we are told today that there is an inspection, and I think I understood it to be once in a 24-hour period. I do not know if that is enough to determine the accessibility of a cab, if it has had 15, 18, or 20 passengers through that cab in a day. I do not know if it requires more inspection than once every 24 hours. Those cabs get the living lights used out of them. So who knows?

In the states that have considered this and decided it was appropriate, the laws have shifted the burden. You all know that someone who brings the lawsuit is the plaintiff, and someone who is named in the lawsuit is the defendant. I have been representing plaintiffs for 32 years. But, back to the whole idea of making it accessible, the states that have done something say they are going to shift the burden of proof to the cab company. The first thing they have to prove is that the cab did have available, operational seat belts. The next big issue is what produced the injury. This is where the subtleness of this bill occurs because what happens now is the focus changes from who caused the crash to who caused the injury. We hear you should wear seat belts and that makes sense. But when it comes down to an injury-producing mechanism, that is not in the realm of my knowledge, and a lot of medical professionals do not know what the injuries would have been if the person had been wearing the seat belt.

That is where the real rub comes in, and that is where this issue gets very difficult. The states that have adopted letting the evidence in have also shifted the burden to the cab company to prove what the injuries would have been had the person had their seat belt on. At least California has done this. This is where that idea of a biomechanical engineer comes up. I have used hundreds of biomechanical engineers, just like the gentleman who testified before me. Their job is to analyze speed forces, directional forces, body mechanics, and what happens, and then we get into the battle of the experts. What all that means, with all due respect to the gentleman who testified before me, is a longer trial and a more expensive trial.

Mr. Trafton talked about how a lot of these cases go to arbitration. Arbitration limits in Nevada are something like \$50,000 to \$75,000, I do not remember which, but it is a rather low threshold. If you are in a mandatory

arbitration and your case has been determined to be less than that ceiling value and you have to hire a biomechanical engineer to compete against the company's biomechanical engineer, that \$30,000 to \$50,000 just got spent on an expert. And that is where the rub is in this thing and if it was so black and white, then I would submit to this Committee, why are there not seat belts in school buses? It is a personal issue. It is a viable issue. I understand it because the proof is not there. There is proof that the seat belts will reduce some injuries, and they will cause other injuries. That is what this battle finally boils down to, the battle between the experts.

I want to give you an example, but it involves a recent tragedy in Las Vegas and I do it with all due respect to the people involved and the families affected. But I want to make sure this Committee understands some of the consequences that you do not see in a first reaction to a bill. This involves the tragedy where the rap artist was driving down the Strip shooting a gun at a car that then lost control and ran into another car that ran into a cab that caught on fire and burned, and an innocent passenger in the back of the cab was burned to death. I know that nobody intended this consequence to happen. But, what would happen if this bill were to pass is if the family of that poor unfortunate woman in the back of that cab, acting innocently, decided to bring an action against the rapper for the wrongful death of that woman, God rest her soul, the rapper would be able to say "She was not wearing her seat belt, I did not cause her death." And I do not think that this is the consequence that this Committee intends. It was clear who caused that accident and who caused that tragedy. What this bill does, whether we like it or not, is shift the blame away from who caused the crash to who caused the injury. And that is why it sounds so easy, but the reality is if the woman was seat belted she would be able to hold the rapper accountable. If she is not seat belted, his lawyer is going to say it is her fault. And we do not think that is reliable evidence to put in front of a jury. That is why we have opposed this bill. That is why we opposed it last session. Assemblyman Hambrick, as you remember we had a rather warm discussion about it.

Assemblyman Hambrick:

It is not over yet.

Bill Bradley:

I know it is not over yet, but it is not just because we do not like it. The reliability or the unreliability of the testimony regarding the production of certain injuries and the lack of other injuries is what really troubles us and makes this unreliable testimony. Does this apply to limousines? Are we as a Committee going to pass a bill that says in taxicabs they have got to wear their seat belts, but not in limousines, not in 40-foot stretch Hummers, and not

where people are having fun? Let us make this real clear, we are going to select one group of people, people who happen to pay somebody to safely transport them. It is for those reasons that we oppose this bill. I am happy to go into the legislative background of this because I was here. It was almost 30 years ago, and I remember it like it was yesterday. I am happy to give the explanation of what happened in either 1985 or 1987.

Assemblyman Hardy:

I do not know how to say this exactly but let us just put things in perspective. I am required to wear a seat belt and that is all I am looking at. If by law I am required to wear a seat belt, whether somebody gets hurt or does not get hurt, or whether it is a law case or not, why in Heaven's name does somebody else not have to wear a seat belt? You used buses as an example where somebody does not use a seat belt. Well, I hate putting a seat belt on in an airplane, but I have to wear one before it lands. So, what makes any difference here? They say this way you die and this way you will live, which does not make sense in an airplane either. We have weird rules, but this is a requirement. Why is this not an opportunity, the way I look at it, for a business to look after their passenger? Why can we not look at that aspect of it, that they are trying to do what is best for their passenger? Nobody knows when you are going to have an accident, as you just said there. Why do we have to look at it as a legal case? Why do we not look at it as science has said this way saves more lives than we lose?

Bill Bradley:

We have made that a public policy in this state. We have said it is against the law, that you will be cited for misdemeanor, and that you can be put in jail for up to six months or fined \$1,000. This bill does not change any of that. The only thing it does affect is what comes into evidence in a civil case. Everything else has been established. It is against the law. It is a bad idea. But there are reasons, occasionally, and the bigger issue is, what about this proof? No state that I am aware of just says, "Let the jury know." It is like throwing a bunch of forks up in the air and seeing how many stick into the ground. That is what this is going to do, saying "Let the jury know." If you follow states that have done something more proactively and put the burden of proof on them to prove these things, then that means something. But this bill kind of reminds me of a bowl of pasta, you throw it at the wall and see how much of it sticks. That is all this bill would do. That is why we have a problem, and it really only relates to the civil cases, not to any other aspect of currently existing law, and it does not change any aspect of existing law.

I do want to talk about two things though. This nice lady, the cab driver, talked about little kids that get in cabs. For those of you who are parents you know

that, depending on the size of your child, there are different levels of seat belts you have to use. Quite frankly, putting an undersized child in the wrong sized seat belt is extraordinarily dangerous, and it is warned against by the manufacturers. So, there are a lot of consequences and a lot of parameters to this that are not even apparent on the surface.

The other example that I wanted to address is when Mr. Trafton was talking about the duty of the cab that hit the pedestrian walking backwards. And I have not had the opportunity to appear in front of you many times, Assemblyman Hardy, but what is nice about this forum we are in is that you are like a jury. You get to sit here and listen to the facts and weigh the credibility of the witnesses and then make decisions just like a jury. And I will ask any of you, would any of you award somebody damages, if they were walking backwards, and I cannot remember if he said they were drunk, in a crosswalk when a cab hit him?

Really, there is a lot of common sense to this. We can point out all kinds of different examples that we have heard in the last 30 years about people using a lawn mower to trim their hedge and other things, but the reality is this is a unique set of circumstances. This is where a paid professional has received compensation to transport you differently, and the law treats that person differently. That is why this is so important to use. I hope that answered your question.

Assemblyman Hardy:

I am a business owner and we work out of town a lot. We have passenger vans that we need to take our employees to and from projects. Why is it in the industrial relations side of this thing that I am required to make sure that my seat belts work, that my employees use them, and that my individuals are licensed to run those regular old vans, which are house vans basically, to and from those jobs? What makes this any different? In my mind I am having a hard time gathering the difference, because it is a passenger vehicle, my people have to be licensed to drive that passenger vehicle, and seat belts are required.

Bill Bradley:

The one distinguishing factor is they are not paying you to safely transport them. That is a service you are offering as part of your business and so the responsibilities are equal. But that is a huge distinction in the law. This duty of a common carrier is a huge distinction, and that is why I would submit there is a difference. It is a great idea. It is a good business practice. Something that a lot of people do not realize is that we as lawyers are business people. Everybody thinks that we are the scourge on business, yet we are all

small-business men. And I applaud you for doing that. But it is different when you pay. There is a higher duty owed by that person operating that cab.

Assemblyman Hambrick:

Mr. Bradley, I feel like I just woke, and the dance is still going from two years ago and the music has not changed much. I appreciate your passion on this issue, but I think some of your analogies are kind of strange. A lot of these issues are public policies and we know about the unfortunate death on Las Vegas Boulevard a few weeks ago. My understanding comes from my background, and you know my background.

Bill Bradley:

I do sir.

Assemblyman Hambrick:

When we go into criminal court, you have a certain burden of proof. When you go to civil court you have a little lower burden of proof, and when you go into administrative, it is the lowest burden of proof. Why then not let a jury examine the evidence in its entirety? And we heard Mr. Trafton early on about "the whole truth." Both of you have great analogies or metaphors but we in this Committee, are by and large, civilians. Our Assembly Committee on the Judiciary has some attorneys, but in this Committee I do not believe there is a member of the bar. So we are going to have to look at this thing more holistically. Why should we not turn around and look at this thing from a very commonsense perspective? Forget the biomechanical engineers, I have dealt with them in the past. Harry Truman once said about economists that you could have 50 in the room and you would get 51 opinions.

Bill Bradley:

I think he said actuaries.

Assemblyman Hambrick:

Yes, but you know where I am going with this. We as a Committee are going to have sit down and determine what is best for the citizens of our state, drivers, passengers, owners, et cetera. We are going to have to shuffle all these cards together and hopefully deal everybody a winning hand. And would that not be unique in Committee history in this building? Everybody gets a winning hand. And I think this Committee is going to have to step back and look at this. I would like you to explain to us as well as you can, why should we not look at this holistically and try to come up with a very commonsense solution. Forget the legalese for a few moments, please. You are talking to a group of civilians here, and we need to understand why you have set certain parameters on these issues. The professional people have set some parameters,

but we need to understand your parameters. If you could explain it very simply and not go too deep into technicalities, because when we go into a work session and we talk amongst ourselves—the D's, the R's, the cab riders, the non-cab riders, the motorcycle drivers, the people that have to drive their employees around—we are going to have to sit down and look at this. I tell people in this building that in order to do my job, I have to learn my job. Now you are going to have to teach me part of that right now.

Bill Bradley:

I am not trying to use big words. Trying to compare two levels of conduct and make them equal does not balance in the law. You are either diminishing the duty, the highest duty in the land of a common carrier, or you are increasing the duty of that cab passenger. Now, right from this table, I did not say it, the proponents of this bill said that somewhere in the area of 85-90 percent of people in the backs of cabs do not wear seat belts. If we are going to try and correct that problem, this is not the way to do that. Because unfortunately, Assemblyman Hambrick, we then do get into the issue of biomechanical engineers, on every single case. Because you, me, and the members of this Committee could not, I believe, sit on a jury and listen to the medical evidence and decide what the injuries would have been if that passenger had a seat belt on. I do not think we are capable of doing that. Quite frankly, in the eyes of the law, that is expertise I would submit is beyond the knowledge of lay people, and we are all considered lay people, as you said. So you have to present expert testimony to define what those injuries would have been. And, we have blown by, let go, forgotten about the difference in duties owed—the law for 300 years—to put everyone on a level playing field. And I am sorry, Assemblyman Hambrick, but I cannot agree to that because I paid that gentleman to transport me safely. When he runs a stop sign, or does not yield, or does something wrong, because of his highest duty, he is supposed to be held accountable to us. And by going to this policy, it does not matter anymore. He blew the red light, maybe he was in a hurry, maybe he was texting, or doing something, but that does not matter anymore, it is now what caused the injury. I am sorry, but we have to have that expert testimony. That does drive up the cost. Assemblyman Hambrick, you and I have had this discussion before. I can hire an expert, and you can hire an expert, and then we throw it in front of jury. To me that is not good public policy.

If we are interested in improving the acceptance of taxicab passengers wearing seat belts, let us do something about it. I have thought about it long and hard. How do you that? I thought about the fact that all of us, when we get in our cars and we do not buckle our seat belts, there is a chime that goes off. I remember disconnecting those when I was younger and reckless. It bothers you and now you cannot disconnect them anymore, I do not think. So what is

wrong with putting that chime in the backseats of cabs? And let us make it even a little more obnoxious like a buzz, or something really bothersome and let that then only cease when people put on their seat belts. I agree with you Assemblyman Hambrick, we need to increase the acceptance and the use of seat belts in the back of cabs, but blaming victims is not the way to do it.

Assemblyman Sprinkle:

I will not have you answer the same question, I do just want to point out that you did use an analogy of us with a jury. And, as a jury member, I would want every single fact or piece of information before I need to make the decision. I would just leave that question hanging out there. What I do specifically want to talk to you about is when you talk about the common carrier. I understand that and I agree with that, so I am going to ask you the same question that I asked the proponents of this bill.

In regard to changing certain parts of statute so that it now does become the duty and the responsibility of the driver of that cab to make sure that their passengers are seat belted, and if they are not, giving them the ability to not transport them, is this something that you would agree with?

Bill Bradley:

Yes. Last session we strongly supported a change to that for the southern Nevada Taxicab Authority rig. I do not understand that rig.

Assemblyman Sprinkle:

And, this is something that I would be willing to work with all of you on.

Bill Bradley:

You want every fact as a juror, and I appreciate that Mr. Sprinkle. Unfortunately, you are not on Judiciary, so you have not gotten to hear some of the talks Assemblyman Hambrick and I have had. We had a discussion last week about how juries are not entitled to know about insurance. That is another thing that the law has decided is not relevant, and it is too confusing. So, I cannot say that Mr. Hambrick is a multimillionaire insured for hundreds of millions dollars on his car, and Mr. Hambrick cannot say that I have health insurance. There are reasons why certain things, public policy, have been decided not to be put in front of juries. That is one of them, and this is another one, because of the unreliability of the testimony regarding the injury-producing mechanism.

Assemblyman Wheeler:

You are a good lawyer, but let us cut to the chase for a minute. This is not about who is at fault, as you say, who caused the crash or who caused the injury. This is about money, this is about damages. Obviously, the more you can get out of cab company the more you make, the less you can get out of them, the more they make.

Bill Bradley:

I take exception to that, sir.

Assemblyman Wheeler:

You understand what I am saying, I think.

Bill Bradley:

I hope I never have to represent another person.

Assemblyman Wheeler:

But you said that showing these damages, and that is what this is, damages, not who is at fault. Obviously, if a cab driver runs a stop light, he is at fault. The onus is on him. But, by the same token, I think we have to have some kind of parity on, not so much who is at fault, but what the damages are and what the output is. So if someone is not wearing a seat belt, even though it is required in our taxicabs, obviously they have got to share some blame on this. I think that is what this is about, this sharing of blame, sharing of damages. But you said it would actually confuse a jury to have a biomechanical engineer in there?

Bill Bradley:

No, I said when you have two experts testifying exactly the opposite, who are you going to pick? Who bought the highest priced expert?

Assemblyman Wheeler:

Well, I am not sure, either the cab company or you, just like we are doing right now.

Bill Bradley:

Agreed.

Assemblyman Wheeler:

So, we are right back to the same thing. I do not see what the difference is between confusing a jury and confusing us here. But I am getting off track here.

If 80 or 90 percent do not wear their seat belt in cabs, obviously we need to do a better job of education. If you wanted to improve how many people wear seat belts, would you not agree that making them liable for their own actions might actually help improve that?

Bill Bradley:

I do not know. I assume they know they are liable now, that they are responsible, but for some reason the statistics bear out that people do not put the seat belts on. I cannot explain that. I wish I could. But if that is the problem here, then we should address that. But, saying you are going to be responsible, that is not necessarily true. It depends on what your biomechanical engineer says happened and what my biomechanical engineer says happened. And that is where I think the confusion is. I am sorry, but we are changing the focus, because it does not matter anymore. You said, Assemblyman, if he runs the light, the onus is on him. There is nothing in this bill about the onus on the taxicab. None. This is a way to shift the blame to the victim, to put the onus on them. And I disagree with that, because, but for the cab running the red light and causing the crash, we never get to this issue. I agree that the states that have done it, have put the onus on the taxicab, and I think that is where the onus belongs.

Assemblyman Wheeler:

While I understand what you are saying, your argument, I do not agree with it in totality. The onus is on the driver for running and the cab company, because they are, for lack of a better term, the deep pocket that runs the driver. What I am saying is that onus, and a little bit of liability, should be on the other people that also broke the law, that did not have that seat belt on, even though there is a sign right there in front of them that says Nevada law requires that you wear a seat belt in the cab. What I am saying is the onus may very well be on the driver, and I assume that is probably where most of it is going to be. If he runs the stop sign, or the red light, and he does something wrong, obviously any jury in the world is going award the damages even with where the problem was. But, I just feel that if someone else is also breaking the law by not putting that belt on, they have some responsibility too, and I am wondering when do we get to a point where we actually make people step up for their own responsibility, instead of trying to take care of everybody all the time?

Bill Bradley:

I am not sure we are trying to take care of people all the time, we are trying to create a level playing field for people who are injured through the negligence of others. I will go back to the example of when you have this person with a higher duty who breaches the duty of care in driving a cab. That no longer makes any difference anymore. It would be interesting to conduct a focus

group with this Committee and bring in somebody who had one set of injuries as a result of not wearing a seat belt, and another set of injuries as a result of the seat belt. And I thought that tragedy on the Strip would be a good example of that, because that shows what can happen when this bill is misapplied. It is clear to you and me that the rapper shooting in the car caused that woman to die. But in a courtroom if this becomes the law, the onus is not on the cab company to prove, number one that her seat belt was available, number two, that it was operational, and number three, what the injuries would have been. All it is now is that she was not wearing her seat belt so go figure it out, and we do not agree with that.

Assemblyman Wheeler:

I think your example may be a little off, because we do not know if the woman was wearing her seat belt or not. Probably if the seat belt was on, then she would have gotten hurt more because the car exploded and that is just my guess as an ex-cop. You said you wanted a level playing field, and I think our definitions are a little different. I think it should be a level playing field where the jury gets all the information, and let them make the decision. That is why we empanel them.

Chairman Carrillo:

Any other opposition on A.B. 177? All right, we are going to move to neutral in Carson City. I see none. Moving for neutral in the south for A.B. 177. We will close the hearing on A.B. 177.

We will open up the hearing on Assembly Bill 198.

Assembly Bill 198: Revises provisions governing taxicabs in certain counties. (BDR 58-86)

Chairman Carrillo:

Welcome, Assemblyman Ellison.

Assemblyman John Ellison, Assembly District No. 33:

I am here today to talk about Assembly Bill 198. With me is Andy Mackay, Chair of the Nevada Transportation Authority (NTA). This bill repeals provisions of existing law that require a vehicle that is to be used as a taxicab other than in Clark County, to be new or to have not more than 30,000 miles on the odometer when it is acquired to be used as a taxicab, and to be removed from operation as a taxicab after certain periods of use. Why this bill is necessary is that, simply put, the provisions this bill will repeal are having an adverse financial effect on many of the taxicab companies that operate in the assembly district I represent. They are generally small companies that tend to generate

little business in the first place. The mileage and the service time restrictions currently in the law simply are not relevant to the cabs in operation in places like Elko, Wendover, and Winnemucca. These provisions, if left in place, could jeopardize the viability of cab companies for our small rural counties.

The consequences of losing cab services for these towns can be devastating to senior citizens who have no other means of transportation to get to the grocery store or doctor appointments. In many of these communities other forms of public transportation simply are not available. The North Eastern Area Transit (NEAT) bus used to be in Elko and gave transportation to our seniors, but it is no longer in place. Additionally, what is to become of people who had a little bit too much to drink while dining out and unwinding from a hard day's work at a local watering hole? If he or she cannot get a cab because the company went out of business, they might decide to drive home while intoxicated. That would not be good for anybody.

Passing this bill will not leave taxicab companies outside of Clark County unguarded; they are still subject to the jurisdiction of the NTA. They will still be subject to financial reporting requirements, liability and insurance, vehicle inspection, operating inspection, and so on. This bill will not affect taxicab companies operating in Washoe County. The mileage and service time restrictions that apply to these companies are already covered by regulations. This bill will only affect the small number of regulated taxicab companies with service areas outside of Clark and Washoe Counties. At this point, I would like to have Mr. MacKay say a few words to perhaps explain more details of how the current mileage and service time restrictions are adversely affecting some of these small companies.

[Vice Chairman Hogan assumed the Chair.]

Vice Chairman Hogan:

Please proceed with your testimony.

**Andrew J. MacKay, Chair, Nevada Transportation Authority, Department
of Business and Industry:**

I believe Assemblyman Ellison really summarized the bill and the proposed repealing of that respective statute. Last session a statute was enacted that took what was initially in *Nevada Administrative Code* 706.3745 and put it into statute. The regulation formerly had a carve-out with respect to those carriers operating outside of Washoe County—call it a rural exemption for lack of a better term. When the regulation was codified into statute, that exemption went away. The end result of that has been a financial burden on the rural carriers. The reason is that these carriers often buy their vehicles, used

vehicles, from police departments and fleets, and they are beyond the minimum or the maximum mileage that you can have on a vehicle put in service and they are in excellent mechanical condition. Historically they have been able to put those in service. As a result of the statutory enactments, they now have to buy vehicles that are newer, which cost a substantial amount of money.

To give you a perspective on the number of vehicles we are talking about, there are 271 taxicabs that are operated statewide. There are four companies that operate in Washoe County as well as Carson City County, operating 222 vehicles, so outside the greater Reno-Sparks area it is a total of 50 taxicabs. The Committee's first thought may be, if this statute is repealed does that mean that all safety oversight of taxicabs goes away? The short answer to that is no. First and foremost, all vehicles have to undergo an annual vehicle inspection where a qualified inspector looks from the front of the vehicle to the back, top to bottom, soup to nuts they go through it. There was some discussion in the prior bill relative to a daily vehicle inspection; by law they have to do that. When that vehicle goes out onto the road every day the driver needs to look at it, walk around and make sure the headlights, tail lights, brakes, and all that stuff is functioning. When it is returned, whoever is taking the vehicle out next has to do that check again.

The main reason for the repealing of the statute is related to the fact that when this thing became law and was put into statute, it was really a Washoe County-specific bill. The intent was to only focus on Washoe County. However, a decision by a Washoe County district judge in November 2012, put an injunction on the State of Nevada from enforcing the statute. The decision of the judge was based on where that statute was placed. As a result of the judge's decision the NTA had literally no regulatory authority pursuant to the statute. However, because that regulation was in place prior to the 2011 Session and up to the effective date, and knowing that Mr. Ellison was going to have to deal with his rural constituencies, the NTA left that regulation in place. Now, obviously statutes always trump regulations; however, when that judge made that ruling, that regulation became in force and effect. So as a result, you now have a bifurcated regulatory system focusing on the statute, which was Washoe County-specific. It stills applies to all the other counties with the exception of Washoe. Washoe County falls under the regulation now, which I would argue is probably more business-friendly. So, that is the whole purpose of why this statute is proposed to be eliminated.

I want to emphasize to the Committee if there is a concern relative to a lack of regulation of taxicabs outside of Washoe County, and obviously outside of Clark County, that is a legitimate concern, but it is assuaged by the fact that those vehicles are safe. They are regularly inspected. In closing I think it is

important to note something about Mr. Ellison's constituents, specifically Elko Taxi Service Inc., Toana Taxi in West Wendover, Minden Taxi Cab Company, and Sunshine Taxi Co. up at South Shore. It is not an exaggeration that some of these companies will go out of business just because they will not be able to afford to put those more expensive vehicles into service.

Vice Chairman Hogan:

Are there any Committee questions?

Assemblyman Sprinkle:

Is it *Nevada Revised Statutes* (NRS) 706.881 where Washoe County falls in place? When we repeal this it says Clark County obviously, but is that what governs Washoe County taxicabs? So that is why Washoe County would not be affected by this if we were to repeal it. Is that correct?

Andrew MacKay:

In short that is correct. *Nevada Revised Statutes* 706.881 are the statutes that govern the Taxicab Authority. When the statute was enacted, it was assigned the statutory reference 706.88345. That was the reason why the judge enjoined the State from enforcing it because it was underneath, for visual purposes, of the Nevada Taxicab Authority. Relative to taxicab regulation, I believe that would fall down to the legislative declaration of purpose, which is NRS 706.151 that specifically delineates the NTA's regulatory authority. But, to answer your question, you hit the nail on the head.

Assemblywoman Spiegel:

Could you please tell me the bill number from the 2011 session?

Andrew MacKay:

I believe it was Senate Bill No. 320 of the 76th Session from the 2011 session.

Assemblyman Ellison:

When this bill was enacted last session and when they started to implement this, Andrew MacKay and the others from the state went in and worked with those cab companies, like those in Humboldt and Elko and the others. They said, we will try to fix this in the coming session, and they gave them a waiver for a short period of time, which kept those cabs in operation. If you look at Elko, they usually purchase the police vehicles, which are in great shape other than having a few miles on them. That is how they do it to keep in operation, and then they go through and redo the cars, but they are in immaculate condition.

Vice Chairman Hogan:

Is there any support of the bill here in Carson City?

A.R. (Bob) Fairman, representing ARF Corporation, Carson City, Nevada:

I am with ARF Corporation. I support this bill to be able to keep our rural areas and taxicabs for a long period of time.

Vice Chairman Hogan:

Is there any support of the legislation in Carson City? [There was none.] Is there any in Las Vegas? [There was none.] Is there any opposition in Carson City and Las Vegas? [There was none.] Is there any neutral testimony in Carson City and Las Vegas? [There was none.] I now open for any public testimony on this bill. [There was none.] I offer the sponsor an opportunity for a final statement on this bill.

Assemblyman Ellison:

Please consider A.B. 198 to keep these taxicabs running in the rurals. Without them our seniors will suffer dramatically.

Vice Chairman Hogan:

I now close the hearing, and will ask if there is any public comment. Seeing none, that concludes our efforts for today.

Meeting adjourned [at 6:56 p.m.].RESPECTFULLY SUBMITTED:

James Fonda
Committee Secretary

APPROVED BY:

Assemblyman Richard Carrillo, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: March 26, 2013

Time of Meeting: 3:22 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 18	C	Vance Hughey	Work Session Document
A.B. 129	D	Vance Hughey	Work Session Document
A.B. 165	E	Vance Hughey	Work Session Document
A.B. 176	F	Vance Hughey	Work Session Document
A.B. 256	G	Vance Hughey	Work Session Document
A.B. 305	H	Whitney Morfitt	PowerPoint Presentation
A.B. 305	I	Jennifer Lasovich	Proposed Amendment
A.B. 305	J	Jennifer Lasovich	Background Information
A.B. 329	K	Assemblyman Andrew Martin	PowerPoint Presentation
A.B. 329	L	Assemblyman Andrew Martin	Cab Fare Rates
A.B. 329	M	Assemblyman Andrew Martin	News Article
A.B. 329	N	Marc C. Gordon	Letter
A.B. 177	O	Marc C. Gordon	Letter