

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session
June 3, 2013**

The Senate Committee on Transportation was called to order by Chair Mark A. Manendo at 12:46 p.m. on Monday, June 3, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. Manendo, Chair
Senator Kelvin Atkinson, Vice Chair
Senator Pat Spearman
Senator Joseph P. Hardy
Senator Donald G. Gustavson

OTHER LEGISLATORS PRESENT:

Assemblyman Richard Carrillo, Assembly District No. 18

STAFF MEMBERS PRESENT:

Jered McDonald, Policy Analyst
Darcy Johnson, Counsel
Jennie F. Bear, Committee Secretary

OTHERS PRESENT:

Terri L. Carter, C.P.M., Administrator, Management Services and Programs
Division, Department of Motor Vehicles

Chair Manendo:

I will open the hearing on Assembly Bill (A.B.) 167.

ASSEMBLY BILL 167 (2nd Reprint): Establishes requirements for the permitting of certain vehicles that are driven in Nevada and owned by a nonresident business. (BDR 43-708)

Assemblyman Richard Carrillo (Assembly District No. 18):

In presenting A.B. 167, I am providing written testimony and photographs ([Exhibit C](#)) of vehicles illustrating the point of the bill. These photographs were taken by a constituent as we rode around my district one day. We noticed many business vehicles with out-of-state license plates.

Two amendments were added in the Assembly. One of them, Amendment No. 318, allows an exemption from the provisions of section 1 of the bill for short-term lessors. This primarily affects rental car companies that already have been complying with Nevada's vehicle registration requirements.

Having out-of-state companies working in Nevada, as shown in the photographs in [Exhibit C](#), puts a burden on Nevada contractors and other businesses. One of the problems is we do not know if these vehicles comply with Nevada's emission testing law under *Nevada Revised Statute* (NRS) 445B.

Senator Spearman:

If a company is doing business in Nevada, it must be registered with the Office of the Secretary of State (SOS). Is it possible for the Department of Motor Vehicles (DMV) to link with the SOS?

Assemblyman Carrillo:

Yes.

Senator Spearman:

The bill is based on a great idea. Is it possible to determine if businesses registered in Nevada through the SOS have registered their vehicles with the DMV? These two State agencies already are linked through technology for voting. Could we extend that platform so we can check vehicle registrations for companies registering to do business in Nevada?

Assemblyman Carrillo:

That probably could be done. It sounds like a great step we should take. I am not sure we could add it to the bill at this late date.

Senator Spearman:

I do not mean to amend the bill. It can be done through regulations.

Assemblyman Carrillo:

I have been a licensed contractor in Nevada since 1997 and am in competition with these out-of-state contractors. They bring their companies here and pay for fuel and materials here, but ultimately money is funneled to other states. This bill aims to equalize the situation, as does the requirement for out-of-state businesses to be licensed in Nevada. Your idea is a good one. We could check to see which out-of-state companies use vehicles to conduct business here. They would be required to register their vehicles in Nevada or obtain the permit proposed in A.B. 167. If they will be competing with our contractors and employing Nevadans, we want to ensure they are paying their fair share.

Senator Gustavson:

Many contractors work in more than one state, such as in Nevada and California around Lake Tahoe or in Nevada and Arizona. They might work in Nevada and Idaho or Oregon. Their primary businesses are out-of-state, but they are working in Nevada. Do they have to be registered in both states?

Assemblyman Carrillo:

We are not requiring vehicle registration in Nevada. They will need to purchase a permit for each of their vehicles. They will not need a secondary set of license plates for Nevada or need to have their vehicles tested for emissions. We assume they have tested their vehicles in their home states. You are correct in saying there are contractors that cross state lines to work. Nevada requires them to be licensed, bonded and insured but does not require their vehicles to be registered. It is similar to reciprocity for contractor licenses between states. We are asking out-of-state businesses to comply with Nevada's laws by permitting their vehicles to be driven on our roads. They have discretion to work in Nevada. When companies with 20 vehicles come to Nevada with out-of-state plates, how are they contributing to our State?

Senator Hardy:

This Session we have had many discussions about border issues such as fuel indexing between Nevada and California. Do you know what other states are considering as far as promulgating new requirements of Nevada companies? Do you have a sense of what is happening in border communities like Mesquite and Laughlin in my district?

Assemblyman Carrillo:

Do you mean how many out-of-state contractors are working in these border towns? There are contractors that will work in Nevada 1 or 2 years on an extended project or on multiple jobs but return to their home states daily. They are licensed through the State Contractors' Board or the SOS. Their equipment, however, is not registered in Nevada. It is unfair competition. If they work in our State, they should follow the same requirements as those of us from Nevada.

Senator Hardy:

I am trying to determine what requirements other states place on Nevada businesses working in their states. In the border communities, people drive across state lines all the time. Even a pizza restaurant in Bullhead City, Arizona, makes deliveries daily in Laughlin. The delivery vehicle is registered in Arizona.

Assemblyman Carrillo:

I do not have statistics to answer your question. A pizza company may not be the kind of business that will be affected by A.B. 167. It will affect businesses registered to do business in Nevada. My question is why are businesses from Arizona, for example, that set up shop in Nevada not registering their vehicles here. Assembly Bill 167 would provide such companies an option to obtain vehicle permits. The situation is similar to our laws that require people who move to Nevada to have their vehicles tested, insured and registered within 30 days.

Senator Hardy:

Does the NRS that will be affected by A.B. 167 refer to companies registered to do business in Nevada?

Assemblyman Carrillo:

I will defer to counsel for the answer to your question.

Darcy Johnson (Counsel):

Vehicles covered in NRS 706 are apportioned vehicles. They are the large trucks registered in their home states and traveling on interstate highways. The fees paid by the owners of these trucks are apportioned to the states in which they travel.

Senator Hardy:

These include the trucks I see in Washoe County, for instance, that travel to California. Seventy percent of the taxes they pay go to California based on the number of miles traveled in that state.

Ms. Johnson:

That is correct. The word "Apportioned" is printed on their license plates.

Senator Hardy:

What is covered by NRS 482?

Ms. Johnson:

That is the chapter for all others that are not apportioned. In your example of the pizza delivery driver, the business would be subject to comply with the new language proposed in section 1 of A.B. 167 if the delivery vehicle were owned by the pizza business. If the vehicle were to belong to the delivery person operating as an independent contractor, the business would not be subject to comply with A.B. 167.

Senator Hardy:

In section 1, subsection 1, paragraph (c), the language appears to say that the permit would apply to an independent contractor.

Ms. Johnson:

The requirement is based on who owns the vehicle, not who drives the vehicle.

Senator Hardy:

An independent contractor must meet all the criteria listed in the bill, one of which is he or she must supply all necessary tools. Would one of the tools be the vehicle?

Ms. Johnson:

Correct, if the contractor is the registered owner of the vehicle.

Senator Hardy:

If the contractor were the registered owner of the vehicle, this section would apply to him or her. Is that right?

Ms. Johnson:

Correct. If the vehicle is not owned by the business for which the contractor works, the vehicle does not need this permit.

Assemblyman Carrillo:

Cox Communications, for example, will hire people as independent contractors to work in southern Nevada using their personal cars for these jobs. They place company signs on their personal vehicles. They may live in Nevada, or they may be people from other states working here for only 5 or 6 months, in which case they should have registered their vehicles in Nevada. This kind of employment has been done for years. Oftentimes, the law has been skirted because the work is short-term. If out-of-state businesses had been doing this kind of practice during Nevada's boom years, it would have greatly affected business decisions. Perhaps more Nevadan contractors could have had these jobs.

Senator Hardy:

We do not have a law that requires businesses to register their vehicles in Nevada within 30 days of starting to work here.

Assemblyman Carrillo:

That is correct.

Senator Hardy:

Will A.B. 167 fix this situation?

Assemblyman Carrillo:

It will not require them to register but will create a permit. The permit cannot be switched from vehicle to vehicle. I am trying to avoid skirting Nevada's vehicle registration laws through this bill. We do not want to require registration because the vehicles may go back to their home states eventually. With this permit, a vehicle can move back and forth between neighboring states and Nevada without dealing with the registration process.

Chair Manendo:

Will there be a decal given to the people who have paid the fee?

Assemblyman Carrillo:

Yes. It is called an "indicator." Though it has not been created yet, the indicator will look something like the stickers used for personal car registrations, as seen

on the last page of [Exhibit C](#). The indicator will show that a permit has been issued for the vehicle on which it is affixed.

Chair Manendo:

Will it cost another \$5? I see something about this on page 6 of the bill.

Assemblyman Carrillo:

The permits cost \$200 for the first vehicle and \$150 for each additional vehicle.

Chair Manendo:

Does the indicator cost \$5?

Assemblyman Carrillo:

No.

Chair Manendo:

I am referring to page 6.

Ms. Johnson:

That is for a duplicate indicator.

Assemblyman Carrillo:

You are correct.

Senator Hardy:

When a citation is given to a vehicle that has not met the bill's criteria, how will officials control the vehicle? Will it be impounded? Will a citation be sent to the out-of-state owner of the vehicle? Will the driver be cited?

Assemblyman Carrillo:

We assume the vehicles are established in Nevada. A citation will be a penalty, not a moving violation, as noted in section 1, subsection 5, which states, "A person who violates the provisions of this section is guilty of a misdemeanor and shall be punished: (a) For the first offense, by a fine of not more than \$500." From what I read, the penalty probably will go to the driver of the vehicle. If that is the case, the company likely will need to pay it since the vehicle does not belong to the employee.

Senator Hardy:

We need to consider the statutory interpretation of "person." It could be a natural person, an entity or company. If a "person" is a natural person, I can understand the citation going to the driver. However, since the bill concerns companies, if the person is an employee, the citation would go to the company. Section 1, subsection 1, paragraph (a) states, "Is not a natural person; ..." This considers an entity to be a person. The entity is not driving the vehicle, but a vehicle may be cited according to section 1, subsection 6 of the bill. How does the vehicle or a person receive a citation without being a natural person? How does it work?

Senator Gustavson:

I drove a truck for years in California and elsewhere. If I had a moving violation, the citation was made out to me. If there were a problem with the vehicle, such as no permit or registration, the citation would be made out to the company. The driver would need to sign for the company, however. At inspection stations, for example, I could be fined for logbook violations. Other violations would go to my employer.

Assemblyman Carrillo:

This would be no different than feeding a meter. Meter readers cite the vehicle because they do not know who was driving the vehicle, especially if it is a company vehicle. The company will find out who was driving the vehicle at the time of the ticket and speak with that person. The legal division can tell us if we need to revise the wording on this matter in section 1, subsection 5.

Ms. Johnson:

In section 1, subsection 5, on the top of page 3 of A.B. 167, we use the word "person" which is defined for the entire NRS as a natural person or an entity. Since we know from section 1, subsection 1, paragraph (a), that the person who owns the vehicle cannot be a natural person, the ticket will go to the owner who is responsible for paying the ticket. Law enforcement officials will hand the ticket to the driver most likely. The only "person" who can violate the provisions of this bill is someone who is not a natural person, so it must be the company. It is complicated, but it works.

Senator Hardy:

Section 1, subsection 6, says that a vehicle may be cited no matter where it is parked. This involves the citing of a vehicle, not the company. The vehicle does not receive a fine, as I understand it.

Ms. Johnson:

Section 1, subsection 6, essentially contemplates a parking ticket situation in which the vehicle is unattended at the time of the citation. The ticketing officer will place the citation under the vehicle's windshield wiper. Because of the nature of the violation, the company is responsible for it.

Senator Hardy:

What is the fine? Is it \$500 for the first violation and \$750 for the second?

Ms. Johnson:

That is correct.

Senator Hardy:

Is it all the same violation?

Ms. Johnson:

Yes.

Senator Hardy:

The vehicle is stationary, the person is moving or just got out of the vehicle, the person is the nonnatural company and the driver of the company-owned vehicle is not at risk. The business is at risk.

Ms. Johnson:

That is correct.

Assemblyman Carrillo:

Assembly Bill 167 is about ensuring that businesses operating in Nevada with vehicles registered elsewhere will obtain vehicle permits in our State. The permits will ensure these vehicles comply with vehicle insurance and other requirements of Nevada laws.

Chair Manendo:

I will close the hearing on A.B. 167.

Senator Hardy:

Assemblyman Carrillo has made his case well. As I began to understand the bill, I became more comfortable with it. It seems that an answer to one of the questions is to allow people to register their vehicles in more than one state. I am not sure if that is possible. If the usual registration fee were apportioned, it might be fairer. In my border district, we see many license plates from Utah and Arizona because the registration fees are less there. Companies are trying to get "jobs in Nevada," and the situation has become unfair for Nevadans. This bill makes sense.

Senator Spearman:

I appreciate Senator Hardy's concerns. The Highway Fund benefits from the bill. These out-of-state businesses are using Nevada roads, tearing them up, and Nevadans are paying for the repairs. If we do not pass this bill, we essentially subsidize out-of-state companies by default.

Chair Manendo:

I remember in the 1990s when the Senior Coalition was active, one of its members used to sit at corners taking pictures of cement-mixer trucks and semitrailer trucks with out-of-state license plates as they annihilated curbs while turning. Over time, the curbs crumbled. Not only were these vehicles destroying the roads, but they also were destroying the sidewalks. The complaint from the coalition was that law enforcement officials were not citing these truck drivers for their destructive driving. Assembly Bill 167 is a good piece of common-sense legislation. If businesses from other states are working in Nevada, using our roads on a daily basis, they should help pay for them. Our State needs the money. This has to do with responsibility. If the Committee wishes to move the bill, I am comfortable with it.

Senator Hardy:

Could someone from the DMV speak on A.B. 167?

Chair Manendo:

I will reopen the hearing on A.B. 167.

Terri L. Carter, C.P.M. (Administrator, Management Services and Programs Division, Department of Motor Vehicles):

The DMV has a fiscal note attached to A.B. 167 showing that the bill will generate revenue. Costs will be incurred for a vendor to print the indicators and

for the DMV to issue regulations, but the fees will surpass these costs. Revenue will go into the Highway Fund. We estimated the dollar amount of the fiscal note based on the number of out-of-state companies registered with the SOS, assuming that each company had two vehicles.

Senator Spearman:

Is it possible to cross-check the names of the companies in the databases of the DMV and the SOS?

Ms. Carter:

I do not know. If we can automate the process, it will benefit everyone. The DMV will look into doing this.

Senator Hardy:

The fiscal note estimates \$6 million is projected to be generated in the first year and \$13 million in the biennium. These fees will more than pay for production of the indicators. Where will the indicator be affixed to the license plate?

Ms. Carter:

The DMV will establish all the requirements in regulations.

SENATOR HARDY MOVED TO DO PASS A.B. 167.

SENATOR SPEARMAN SECONDED THE MOTION.

Senator Gustavson:

While I understand the intent of this bill, I wonder how the fee amount was decided. I will vote for the bill but reserve the right to change my vote on the Senate Floor.

Senator Hardy:

This is a common-sense measure. In time, we can look at the impact it will have in the border communities, such as those in my district, and its impact on car registrations of snowbird residents. The cement truck example is an excellent point, Chair Manendo.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Manendo:

The next item on the agenda is consideration of Senate Bill (S.B.) 109.

SENATE BILL 109 (2nd Reprint): Revises provisions relating to off-highway vehicles. (BDR 43-467)

Does the Committee concur with the Assembly on S.B. 109?

Jered McDonald (Policy Analyst):

I have provided a concur/not concur document ([Exhibit D](#)). The amendment proposed by the Assembly Committee on Transportation enlarges the sticker for off-highway vehicles (OHV) to 3 inches high by 3.5 inches wide. The amendment also reduces the number of days from 60 to 15 in which an OHV registered or certified in another state may be in Nevada before it must be registered here.

Chair Manendo:

The Committee concurs on S.B. 109.

The final bill is A.B. 447.

ASSEMBLY BILL 447 (2nd Reprint): Revises provisions relating to roadside rest areas. (BDR 35-1157)

Mr. McDonald:

The bill is summarized in the work session document ([Exhibit E](#)).

SENATOR SPEARMAN MOVED TO DO PASS A.B. 447.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Manendo:

Seeing no further business, the meeting is adjourned at 1:29 p.m.

RESPECTFULLY SUBMITTED:

Jennie F. Bear,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

| <u>EXHIBITS</u> | | | | |
|------------------------|----------------|---|------------------------------|---|
| Bill | Exhibit | | Witness / Agency | Description |
| | A | 1 | | Agenda |
| | B | 1 | | Attendance Roster |
| A.B. 167 | C | 9 | Assemblyman Richard Carrillo | Photos of a Business Vehicle with a California License Plate and Mock-up of Proposed Permit Indicator |
| S.B. 109 | D | 2 | Jered McDonald | Concur/Not Concur Document |
| A.B. 447 | E | 1 | Jered McDonald | Work Session Document |