

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session
March 11, 2013**

The Senate Committee on Transportation was called to order by Chair Mark A. Manendo at 9:02 a.m. on Monday, March 11, 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

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Senatorial District No. 8

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Kimberly Maxson Rushton, Executive Director, Livery Operators Association of Las Vegas
Andrew J. MacKay, Chair, Nevada Transportation Authority, Department of Business and Industry
Pat Conmay, Chief, Records and Technology Division, Department of Public Safety
Sean Sever, Communications Director, Communications Division, Nevada Department of Transportation
Paul J. Enos, CEO, Nevada Trucking Association

Bill Hoffman, P.E., Deputy Director, Nevada Department of Transportation

Chair Manendo:

We will begin the meeting today with a hearing on Senate Bill (S.B.) 210.

SENATE BILL 210: Revises provisions governing certain motor carriers.
(BDR 58-949)

Senator Barbara K. Cegavske (Senatorial District No. 8):

The purpose of S.B. 210 is to provide the traveling public with an extra layer of security by ensuring commercial drivers transporting people in Nevada have appropriate qualifications. The bill's objective is to implement a system of regulatory oversight by the Nevada Transportation Authority (NTA), Department of Business and Industry (DBI), of drivers who transport people in commercial motor vehicles. Drivers will be subjected to criminal background checks conducted by the FBI and required to hold valid commercial driver's licenses and provide proof of employment or letters of intent for employment by certified carriers. Additional provisions authorize the NTA to refuse a driver's permit if an applicant has been convicted of a felony in the previous 5 years or a sexual assault felony any time before the application date. The NTA may deny any applicant if he or she has been convicted of DUI in the 3-year period immediately preceding the application. The bill also requires drivers who owe child support or who have other obligations to the State or municipalities, such as outstanding warrants, to pay the child support or quash the warrants prior to being issued permits. Lastly, S.B. 210 will create consistency within the commercial transportation industry by requiring taxicab drivers in rural and northern Nevada and limousine and shuttle-bus drivers statewide to obtain permits akin to those issued by the Taxicab Authority (TA), DBI.

Kimberly Maxson Rushton (Executive Director, Livery Operators Association of Las Vegas):

The bill's intent is to create consistency within the commercial transportation industry by requiring taxi drivers in northern Nevada and limousine operators and shuttle drivers statewide to be issued NTA permits before operating commercial transportation vehicles. This bill addresses concerns about the safety of drivers and their fitness to provide commercial transportation to Nevada residents and tourists. For many years, the NTA has overseen the operation of its carriers and the industry without overseeing drivers. As the former chair of the NTA,

I consider such oversight to be a safety issue. The bill addresses the protection of the traveling public, a particular concern of this Committee.

Specifics of S.B. 210 are different from the TA's regulations. Those involve a comprehensive system of driver obligations. The bill proposes a simpler set of requirements. The driver must demonstrate employment with a certificated carrier, or provide a letter of intent to be employed by such, and hold a valid Nevada driver's license or one from a neighboring state authorizing operation of a commercial vehicle consistent with that state's authority. This point specifically accommodates drivers in northern Nevada living in neighboring states. For the first year, the application fee is \$50, followed by a \$50 fee for a 3-year renewal. The NTA is required to conduct criminal background checks to determine driver fitness. Automatic disqualifiers include commitment of a felony within the past 5 years or conviction of a sexual assault or a DUI within the past 3 years. These violations inherently make a driver unsafe to transport passengers. The overall obligation of applicants is to show their fitness and ability to provide services as commercial motor carriers to protect Nevada residents and tourists.

As I was reviewing this bill, I explored how other jurisdictions license limousine drivers. I found a quotation that identifies the need for this legislation, and I will read from my written testimony ([Exhibit C](#)):

Limousine drivers are responsible for the safety and happiness of their passengers, while also holding a responsibility to keep the roads safe for other motorists and pedestrians. The challenges inherent in the job are the reason behind the rules and regulations that govern limo drivers, and these laws provide an incentive for limousine companies to hire only the most qualified drivers.

This legislation is critical and intended to protect the traveling public. I urge you to pass S.B. 210.

Senator Gustavson:

Did you say the TA in Las Vegas is already conducting background checks on drivers?

Ms. Rushton:

Yes. That is correct.

Senator Gustavson:

I am a former professional limousine driver. Does a person need to have a work card, also known as a "sheriff's card," to drive a limousine these days?

Ms. Rushton:

A person must have a commercial driver's license to drive a limousine. This is specific to the municipality and the type of vehicle driven. Depending on the vehicle size and passenger capacity of the vehicle, in some instances only a standard driver's license is required.

Senator Gustavson:

Is a driver of a taxicab or limousine required to hold a commercial driver's license?

Ms. Rushton:

Yes. It is required in some cases because Nevada defines two types of limousines. Traditional limousines have a capacity of less than nine people, including the driver. Livery limousines have capacity of 9 or more but less than 16 people, including the driver. A person driving a livery limousine is required to have a commercial driver's license.

Senator Gustavson:

Does a person need to have a work permit to drive for one of these companies?

Ms. Rushton:

No. It is not required in all jurisdictions or municipalities in Nevada.

Senator Gustavson:

In which jurisdiction is a permit required?

Ms. Rushton:

I cannot tell you which counties, but these are not required in southern Nevada. I do not believe they are required in Washoe County.

Senator Gustavson:

To obtain a work permit, a person must have a background check. I wonder why someone needs an additional background check to obtain a driver's permit from the NTA. A driver already has a driver's license of some sort. This bill further requires a driver to show proof of employment or letter of intent for

employment to obtain the driver's permit. It appears to me this is mandating additional requirements for permits to work in this industry. Requiring a background check of a person who has a driver's license and already has undergone a background check seems onerous.

Ms. Rushton:

The specific reason is outlined in the details of S.B. 210. We are trying to bar people who have had criminal convictions making them unfit and unsafe to drive a commercial vehicle. While employers may contact an applicant's former employer as a background check, the former employer likely will not give specifics about why someone was terminated. Another reason is criminal background checks are limited in purview, relating to the geographical area of the check. Background checks for people in southern Nevada will search for convictions received in that part of the State. The background check for applicants from outside Nevada, however, may not show any convictions within our State. By requiring all applicants to undergo a permit process through the NTA, their backgrounds are reviewed by the FBI with a nationwide purview. This will give the NTA and prospective employers a better understanding of each applicant's fitness to transport people. The background check looks for felonies, sexual assault convictions and DUI convictions. The TA's requirements are more specific. That agency is authorized to deny an applicant for many reasons at its discretion. These can include an applicant's failure to appear at traffic court for a ticket, inability to perform his or her job and excessive traffic violations. Such reasons for denial are more prohibitive than what is proposed in S.B. 210. This bill is a starting point to ensure only people who are safe to operate commercial transportation vehicles are allowed to do so.

Senator Gustavson:

Safety is important in this and other industries. In section 2, subsection 2, paragraph (a), this bill says that the NTA " ... may forward to the Central Repository for Nevada Records of Criminal History [Records and Technology Division, Department of Public Safety] ... " (Repository) a complete set of an applicant's fingerprints. However, during our February 25 hearing on S.B. 12, we heard from the Chair of the NTA, Andrew MacKay, that fingerprints are not forwarded in every case.

SENATE BILL 12: Clarifies the authority of the Nevada Transportation Authority to submit fingerprints to the Federal Bureau of Investigation. (BDR 58-356)

There is some discretion. The Committee asked him who might be prohibited from driving. His response was that it is up to the NTA to determine the criteria. The Committee is working on another bill related to permitting. It is questionable if the NTA should have this discretion.

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

The fingerprints required in S.B. 12 are not for the drivers. They are for applicants who are owner-operators of a company. This is the distinction.

Senator Gustavson:

I realize that bill requires, or may require, different people to have fingerprints submitted to the FBI. The issue is the wording. Should it read "may be required" or "shall be required" to provide their fingerprints? I am curious about this point.

Senator Hardy:

Do other states such as California require similar permits?

Ms. Rushton:

California does not do this statewide. It is done at the discretion of each municipality to require a commercial driver's license above what the state requires. Generally, states will follow the requirements of the U.S. Department of Transportation for commercial driver's licenses. This does not preclude states from requiring more. California's statutes enable counties to determine specific regulations related to commercial drivers. States such as New York and Florida, which have large tourist industries, have specific requirements for limousine drivers. The requirements involve a criminal background check, regular drug testing and a 2- to 3-hour course on vehicle operation, especially for a stretch limousine.

Senator Hardy:

Do the jurisdictions of South Lake Tahoe and Truckee in California have these requirements?

Ms. Rushton:

I do not know. They do require a commercial driver's license. For people who live in California but professionally transport people in Nevada, this bill does not duplicate California requirements.

Senator Hardy:

Under the proposed bill, would passengers be safer in Nevada than in California?

Ms. Rushton:

Yes, I respectfully say they would be safer here.

Senator Hardy:

Is the fee outlined in the bill an extension of a fee people are already paying?

Ms. Rushton:

There is limited oversight by the NTA of drivers at this time. Its authority involves regulatory violations only. This fee does not create a new fee for drivers. To be candid, this might change. When reviewing the TA's procedures, I noted its provisions require a \$51 to \$53 fee to submit fingerprints to the Repository and a \$40 fee to reimburse the State for costs incurred by the NTA. The fee proposed in S.B. 210 is about half the cost of these fees. I am working with NTA Chair MacKay and NTA members to find alternatives that will yield economies of scale in the background check process as we prepare the bill's fiscal note.

Senator Hardy:

Is the answer that there is a fee for the taxicab drivers and this bill would have limousine and shuttle-bus drivers pay the same kind of fee?

Ms. Rushton:

That is correct.

Senator Hardy:

Is there a way to include spousal support in the bill in addition to its child support provisions?

Ms. Rushton:

I defer to the Legislative Counsel Bureau (LCB) on this matter. The language in the bill is standard language regarding child support. Whether spousal support is to be a requirement, I defer to the LCB.

Senator Hardy:

Will valet drivers be covered under this bill?

Ms. Rushton:

No. Valet drivers use private vehicles. They do not park cars for a commercial carrier.

Senator Hardy:

Are drivers of small shuttle vehicles, such as "2-person Rhinos," covered under this bill?

Ms. Rushton:

Yes. Generally, such shuttle services are fully regulated carriers. They are either contract carriers or shuttle-bus carriers. Many of them are at airports. Airport shuttle drivers are required to have the proposed background check.

Senator Hardy:

For example, will drivers transporting three or four people in a Rhino up a hill from a dirt parking lot to another location be covered by this bill?

Ms. Rushton:

Yes, if they are employed by a fully regulated commercial carrier in Nevada.

Senator Hardy:

If they volunteer as drivers for a tour, such as to St. Thomas, Nevada, will they be covered by this bill?

Ms. Rushton:

No. They are exempt because that specific activity is not under the NTA's jurisdiction. The volunteers operate a free shuttle. No compensation is given.

Senator Hardy:

Section 2, subsection 3 of the bill says the NTA "may" refuse to issue permits to felons. We want to identify felons, but the theory is that after their sentences are served, they have paid their debts to society and are no longer felons. I appreciate the word "may" here. Is there a particular felony other than the sexual assault conviction that is a disqualifier? How was the 5-year period determined?

Ms. Rushton:

The period of 5 years was determined through consultation with the LCB. This is a carry-over from the 2011 Session. It also was based on a review of

requirements of the TA and other jurisdictions. The word "may" was specifically intended for the reason you mentioned. There might be circumstances in which people have been convicted and either have finished long-term probation or have been paroled. They would not necessarily be unfit or unsafe to operate a vehicle. When I was a prosecutor, I had two cases in which limousine drivers were accused of sexual assaults on passengers, one of whom was a child going to a prom. The bill was drafted with this in mind. The DUI convictions are equivalent to sexual assault convictions. Someone who has been convicted of DUI is not fit to be a commercial driver in Nevada.

Senator Hardy:

If someone were framed, convicted of a felony and then exonerated, would the NTA have the authority to grant a permit to this person?

Ms. Rushton:

Yes. The NTA makes the final decision on who is granted a permit.

Senator Hardy:

Can this situation be written into the bill to avoid the 5-year period for someone exonerated of a felony?

Ms. Rushton:

Yes. The language of S.B. 210 does not provide as much discretion to the NTA as State regulations give the TA in its jurisdiction. The NTA's decisions will be restricted by automatic disqualifiers. While I request consideration of the bill as proposed, I encourage recognition of the fact that questions such as yours, Senator Hardy, do show a need for an amendment to allow more discretion to the NTA.

Senator Gustavson:

Is the \$50 fee to pay for the driver's permit issued by the NTA? Is there an additional fee for the background check?

Ms. Rushton:

I do not read it that way. I read it as a \$50 permit with no other associated fees. Anytime someone is asked to pay a fee, scrutiny must be involved. This fee was set to be consistent with the cost for the Repository to conduct a background check. This might change, based on the fiscal note to be presented by the NTA. We are in the process of finding solutions with

economies of scale, in collaboration with the TA and the Department of Motor Vehicles (DMV), to keep the State's implementation costs down. The \$50 fee likely will go to the Repository rather than to the NTA for implementation of the process.

Senator Gustavson:

In essence, are you saying you are not sure yet?

Ms. Rushton:

That is correct. This issue was discussed in the last Session. It is likely the Repository has changed the cost of conducting a background check and fingerprint analysis. We need to speak with Repository staff and write the fiscal note.

Pat Conmay (Chief, Records and Technology Division, Department of Public Safety):

The DPS is neutral on S.B. 210. I will read from the fiscal note ([Exhibit D](#)).

Mr. MacKay:

The NTA requested information from Ms. Rushton's clients, who constitute the majority of Clark County operators, to research their employment status and the driver-to-vehicle ratio. The NTA will extrapolate this information to estimate the number of drivers affected by S.B. 210. Tomorrow afternoon, I will share this data with the Repository to help calculate the fiscal impact. The Repository will have the information as soon as possible.

Chair Manendo:

I will close the hearing on S.B. 210. We will bring the bill back to the Committee for further discussion. The work session will begin now.

Jered McDonald (Policy Analyst):

In this work session, we will consider four bills. The first one is S.B. 12. In the related work session document ([Exhibit E](#)), the bill was requested on behalf of the NTA. The Committee heard this bill on February 25. It requires certain motor carriers and applicants to operate as motor carriers to submit to the NTA a complete set of fingerprints and written permission authorizing the NTA to forward the fingerprints to the Repository for submission to the FBI. The NTA chair has proposed an amendment to clarify which motor carrier applicants must

submit a set of fingerprints. The amendment changes the effective date to October 1, 2013.

Senator Hardy:

Is there a time frame during which the applicant must submit the fingerprints? "Not later than 5 days ..." is mentioned on page 6 of the bill in section 5, subsection 4 concerning schedules and tariffs. I do not see time frames mentioned in other parts of the bill. Having a time frame seems to be helpful.

Mr. MacKay:

The subsection you noted concerns the amount of time charter-bus operators have to file tariff rates with the NTA. An applicant will submit his or her fingerprints when filing the initial application. At this point, the NTA will transmit the fingerprints to the FBI. The amount of time varies for the background check results to be returned. It is not a long time.

Senator Hardy:

Are you saying there is no time frame?

Mr. MacKay:

That is correct. Once the fingerprints are submitted to the FBI, the NTA and the applicants await the results.

Senator Hardy:

Are the fingerprints automatically sent to the FBI when an applicant has the prints taken electronically, or does the NTA receive the fingerprints from an applicant and possibly delay the submission of the prints to the FBI? Does the NTA have an obligation to send the fingerprints to the FBI as soon as they are received or within a certain amount of time?

Mr. MacKay:

The NTA does not want to delay the process. We send them to the FBI once we receive them. We want the results as soon as possible to allow applicants to start working, presuming no disqualifiers are found.

Senator Hardy:

Is the legislative intent to have the fingerprints sent to the FBI within 3 business days?

Mr. MacKay:

The legislative intent in the record can reflect the NTA desires to send them as soon as possible—immediately.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 12.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. McDonald:

Senate Bill 13 is the next bill in the work session.

SENATE BILL 13: Authorizes the Department of Motor Vehicles to suspend the registration of a motor vehicle under certain circumstances. (BDR 43-368)

In the related work session document ([Exhibit F](#)), this bill was requested on behalf of the DMV. The Committee heard the bill on February 25. Senate Bill 13 authorizes the DMV to suspend the registration of a motor vehicle if the payment for the registration fee is returned to the DMV or is otherwise dishonored. Additional bill provisions require the immediate return of the certificate of registration and license plates upon suspension. The DMV is required to notify the registered owner of the suspension and provide instructions for its reinstatement. Upon payment of the registration, the DMV must reinstate the registration. No amendments have been proposed for this bill.

SENATOR ATKINSON MOVED TO DO PASS S.B. 13.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. McDonald:

Senate Bill 43 is the next bill in the work session.

SENATE BILL 43: Revises provisions relating to the operation or movement of certain vehicles. (BDR 43-340)

In the related work session document ([Exhibit G](#)), this bill was requested on behalf of the Nevada Highway Patrol, DPS. The Committee heard the bill on March 4. Senate Bill 43 expands the circumstances under which the driver of an authorized emergency vehicle is granted certain privileges when escorting a permitted oversized load. The privileges include use of a system that causes the upper-beam headlamps of the vehicle to continue to flash alternately, proceed past a red or stop signal, exceed speed limits and disregard regulations governing direction of movement or turning in specified directions. Additionally, the bill authorizes law enforcement personnel to control traffic via a temporary roadblock upon the approach of a permitted oversized vehicle. No amendments have been proposed for this bill.

SENATOR SPEARMAN MOVED TO DO PASS S.B. 43.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. McDonald:

The last bill in the work session is S.B. 14.

SENATE BILL 14: Revises certain provisions governing highways under the jurisdiction of the Department of Transportation. (BDR 43-362)

In the related work session document ([Exhibit H](#)), this bill was requested on behalf of the Nevada Department of Transportation (NDOT). The Committee heard the bill on March 4. Senate Bill 14 authorizes the director of NDOT, for the purposes of public safety, to reduce the maximum weight limits on a highway or bridge. Additionally, S.B. 14 revises the provisions requiring NDOT to consider certain factors and to receive approval from its Board of Directors before reducing the maximum weight limits on certain highways. One amendment has been proposed by NDOT and the Nevada Trucking Association. Among other things, the amendment limits the weight restrictions on a bridge or highway for a period not to exceed 180 days. The amendment

also requires the NDOT's director to notify the Board of Directors within 60 days of any reductions in the maximum weight limits on any roadway.

Sean Sever (Communications Director, Communications Division, Nevada Department of Transportation):

The NDOT supports the amendment to S.B. 14.

Paul J. Enos (CEO, Nevada Trucking Association):

The Nevada Trucking Association supports the amendment.

Senator Hardy:

The Committee had discussed getting further clarification on scenic routes and reducing weight limits on bridges with engineering issues. Did we receive this information?

Mr. Enos:

This amended bill will address every bridge and roadway in Nevada, including scenic byways. After the hearing on March 4, we spoke with Michael Rich who testified at that hearing with concerns about the scenic routes. The wording of the amendment was revised so that scenic routes are not singled out.

Senator Gustavson:

I still see the term "scenic byways" in the bill. Is it necessary to delete the term?

Mr. Enos:

The purple wording in the amendment deletes the term. By doing this, the bill addresses every roadway and bridge in the State.

Senator Gustavson:

Will this change include the roads to Lake Tahoe?

Mr. Enos:

Yes. The scenic routes around Lake Tahoe and through Panaca and Caliente, for example, will be included. The bill's intention is not to restrict deliveries of essential freight. Ninety-four percent of all freight in Nevada is handled by trucks. People living on and near scenic routes will continue to have their freight-delivery needs met.

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Bill Hoffman, P.E. (Deputy Director, Nevada Department of Transportation):

The NDOT is concerned about the safety of the motoring public. We want to have the ability to warn motorists about reduced weight limits in a timely manner. Preserving public safety is our goal.

Chair Manendo:

Will the amendment achieve this? Are you comfortable with it?

Mr. Hoffman:

I believe this wording will achieve what NDOT needs to do and will benefit the trucking industry and the motoring public.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 14.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Manendo:

Having no other business today, I adjourn this meeting at 10:02 a.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 | 4 | | Attendance Roster |
| S.B. 210 | C | 2 | Kimberly Maxson Rushton | Written Testimony |
| S.B. 210 | D | 1 | Pat Conmay | Fiscal Note |
| S.B. 12 | E | 9 | Jered McDonald | Work Session Document |
| S.B. 13 | F | 1 | Jered McDonald | Work Session Document |
| S.B. 43 | G | 1 | Jered McDonald | Work Session Document |
| S.B. 14 | H | 2 | Jered McDonald | Work Session Document |