

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session
March 27, 2013**

The Senate Committee on Transportation was called to order by Chair Mark A. Manendo at 8:07 a.m. on Wednesday, March 27, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4421, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator 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
Senator Moises (Mo) Denis, Senatorial District No. 2

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
Curt Augustine, Alliance of Automobile Manufacturers
Alfredo Alonso, Alliance of Automobile Manufacturers
David Goldwater, Google Inc.
John P. Sande III, Nevada Franchised Auto Dealers Association
Wayne Frediani, Nevada Franchised Auto Dealers Association

Chair Manendo:

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

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

Jered McDonald (Policy Analyst):

I will read from the work session document ([Exhibit C](#)) for S.B. 210. In addition to what I read from the work session document, under item 2 of Ms. Rushton's proposed amendment, section 2, subsection 2, paragraph (a) of S.B. 210 would change the word "may" to "shall." Also, subsection 5 would require that the driver pay the fingerprint processing fee. An additional amendment has been submitted. Patrick Conmay, Chief of the Records and Technology Division of the Department of Public Safety (DPS), proposed this amendment during the Committee hearing on March 11. It amends the effective date from October 1 to January 1, 2014.

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

I had not seen the DPS amendment and am not sure why the effective date is delayed.

Mr. McDonald:

The proposed effective date is only 3 months later than originally written. This is because DPS said it needed more time to implement changes in its technology to comply with the provisions of the bill.

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

In response to the last question, the Livery Operators Association of Las Vegas (LOA) supports changing the effective date. Based on discussions with the Nevada Transportation Authority (NTA), we have learned that both the NTA and DPS need more time to set up the technological infrastructure to process fingerprint requests. The LOA supports changing the effective date of S.B. 210.

As to the changes being proposed in the original amendment, most of them resulted from comments during the initial hearing of the bill on March 11. Additionally, the amendment modifies the bill's language to include charter bus drivers. Under the Transportation Equity Act for the 21st Century, each state only has partial regulatory authority over charter bus safety and insurance.

Because this bill proposes a higher safety standard for commercial drivers, there is no reason to exempt charter bus drivers. Similarly, the exemption for nonemergency medical transportation drivers in section 2, subsection 6 of the bill is removed by the amendment. These individuals drive for fully regulated carriers under the NTA's jurisdiction and should apply for permits based on the uniqueness of the services they provide and vehicles they operate. Section 2, subsection 5, clarifies the fees. The \$50 fee for the first year of the permit is in addition to the fingerprint-processing fee. The rest of the provisions are akin to those of the Taxicab Authority (TA). They give the NTA discretion to determine the fitness of drivers to be permitted. Changing the word "may" to "shall" was based on Senator Gustavson's comments at the hearing.

Chair Manendo:

How much is the fee to process the fingerprints?

Ms. Rushton:

It is \$51.25, according to the TA's Website. The processing fee and the \$50 fee to the NTA are included in the bill.

Senator Gustavson:

The fees will total \$101.25 for each driver. Will the fees be paid for the first year and then every 3 years thereafter?

Ms. Rushton:

Yes. The LOA did not originally propose the initial 1-year permit with a 3-year renewal. I have discussed with Marilyn Skibinski, NTA Deputy Commissioner, a possible amendment to extend the length of time for the initial permit. I anticipate an amendment in the future.

Senator Gustavson:

Is this the same as for the TA?

Ms. Rushton:

Yes. However, the TA does not require a 1-year initial permit with a 3-year permit after that. The language for the NTA needs further modification. We will work with the TA and the NTA on consistent language.

Senator Gustavson:

I am looking for consistency and less regulation on this point. It seems costly to the drivers, who do not make much money.

Ms. Rushton:

Since the intent of the bill is safety, as the former chair of the NTA, I cannot determine why an initial permit is followed 1 year later by a renewal permit good for 3 years. The discussions in which I am involved include consideration of possible safety issues for the timing of the permits. I agree with your recommendation that the wording for the NTA permit process be consistent with that of the TA.

Senator Hardy:

When you talk about amending, are you referring to the regulation or another amendment for this bill on the floor of the other House?

Ms. Rushton:

I recommend we further amend the bill by changing the length of the term of the permit issued to drivers by the NTA to 3 or 4 years. This language has yet to be proposed because we still were discussing certain aspects of the process.

Senator Hardy:

Are you proposing a conceptual amendment for 3 years so we can process the bill now, if the Chair is amenable to this?

Ms. Rushton:

Yes. A 3-year term is sufficient and is consistent with the TA's term. I propose this and ask for your support.

Senator Hardy:

Mr. Chair, I would support that.

Chair Manendo:

If the Committee wishes to proceed with this bill today, I suggest we bring this particular amendment back for us to read before taking the bill to the floor of the Senate.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 210 WITH PROPOSED AMENDMENTS.

SENATOR SPEARMAN SECONDED THE MOTION.

Senator Gustavson:

Until I see the amendment, I will not support the bill. Additionally, I am waiting for other information before I can support it. At this time, I will vote "no" with the right to change my vote on the floor.

THE MOTION CARRIED. (SENATOR GUSTAVSON VOTED NO.)

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Chair Manendo:

I will close the work session on S.B. 210 and open the hearing on S.B. 313.

SENATE BILL 313: Revises provisions relating to autonomous vehicles.
(BDR 43-954)

Curt Augustine (Alliance of Automobile Manufacturers):

Senate Bill 313 is the result of regulations developed by the Department of Motor Vehicles (DMV) and laws passed in Florida and California. Nevada passed its law first, but we have learned several things from the laws in the other two states. Staff of the Alliance of Automobile Manufacturers additionally has learned more from the DMV and other legislatures. We want to include language in Nevada's law parallel to those of California and Florida regarding testing autonomous vehicles and legal liability involved with converting standard vehicles to autonomous ones. The Alliance is not seeking any liability exemptions for any cars with autonomous vehicle technology produced by our member companies. The bill exclusively discusses cars converted by a nonoriginal equipment manufacturer.

Alfredo Alonso (Alliance of Automobile Manufacturers):

We have learned much and are still learning about driverless vehicles. The fact that technology has developed to the point where we may see autonomous vehicles on the roads in the next 5 to 10 years is amazing. The bill defines "autonomous technology" to exclude the various technological features now available in vehicles such as driver assistance, emergency braking and other

safety features. Section 3 of S.B. 313 requires a person to be in the vehicle while it is being tested. This is for safety during testing on actual streets. Section 4 of the bill proposes another safety provision. It requires each autonomous vehicle to have an indicator displaying when the vehicle is in autonomous mode with a feature to allow the person testing the vehicle to disengage the autonomous mode when needed.

Section 5 is especially important to the automobile manufacturers because it involves liability for third-party alterations that convert standard vehicles into autonomous vehicles. We are working with trial lawyers on the wording. For example, if a defect existed in the vehicle before it was modified into an autonomous vehicle, the manufacturer would be liable for damages if a crash later occurred. However, if the modifications caused an accident, liability should be transferred from the manufacturer to the person who converted the vehicle.

Senator Moises (Mo) Denis (Senatorial District No. 2):

I will read my written testimony ([Exhibit D](#)) in support of S.B. 313.

Mr. Alonso:

One addition that was not included in the bill is the bond. Any knowledgeable hobbyist can convert a vehicle, which is a major concern for testing autonomous vehicle technology. The DMV wrote into regulations a \$1 million bond. We believe this is too low and suggest an amendment for a \$5 million bond. This is a relatively small bond for this type of technology, but it is critical that we prevent laypeople from creating autonomous vehicles in their garages. Florida and California have included a \$5 million bond in their laws.

Chair Manendo:

Is the bond for safety purposes?

Mr. Alonso:

A bond would be necessary for someone to obtain a testing license. If a problem with the vehicle occurred, a bond would help pay damages. No one can predict what might happen while testing unmanned vehicles.

Chair Manendo:

Would people working on such conversions need insurance to drive the vehicles on roads?

Mr. Alonso:

Yes. The bond is only for obtaining a testing license. Companies working on this technology must obtain bonds before testing their products on Nevada's roadways. It is not a \$5 million deposit but a bond. The theory is to have a pot of money available in case of accident. To my knowledge, insurance is not available for these kinds of vehicles. Yesterday, we spoke with someone from Farmers Insurance Group and learned the company is considering such policies.

Senator Hardy:

Could the bond you are proposing also cover the use of the car, or would it only cover the person building and testing the car?

Mr. Augustine:

The bond is only contemplated for the testing aspect.

Mr. Alonso:

By the time these cars are operational on the roads, insurance companies will have insurance rates or premiums for individual owners. The proposed bond is the best we can do now.

Senator Hardy:

Will the person testing the vehicle on the road be required to have proof of insurance, as I do when I drive my car, as well as a bond?

Mr. Augustine:

Nevada's law regarding autonomous vehicles does not change any of its insurance laws. For example, a driver must be insured for property damage caused when driving his or her vehicle. The bond refers to the technology developer.

Senator Hardy:

The beauty of it is there is no driver, so no insurance is needed.

Mr. Augustine:

That is contemplated for the future. A driver still will be in the vehicle for the time being. We have been working with insurance companies and law enforcement officials nationwide in planning for the ultimate unveiling of driverless automobiles. If there is an accident and no person is in the car, for example, who will receive a ticket? This is an understandable concern for law

enforcement authorities. All of these concerns are being implemented methodically, but now we are focusing on vehicle testing.

Senator Hardy:

This brings me to my point again. Will there be an insurance policy for the person in the autonomous vehicle during the testing period?

Mr. Augustine:

Yes. This will be no different from the requirements for any corporate vehicle in a fleet. These vehicles must comply with existing Nevada insurance requirements for driver and property coverage.

Senator Spearman:

Is indemnification possible? Might someone who is indirectly responsible for an accident be liable for it?

Mr. Alonso:

No. The bill's language has been written to place responsibility solely on the automobile manufacturer unless a conversion has been made in the vehicle. If you buy an autonomous Toyota and there is a problem, Toyota is liable for it. If you buy a regular Toyota Prius, for example, and have it modified to be autonomous, the liability transfers to the third party who modified it. We continue to work with trial lawyers on the language, which is very close to being final. Section 5 of S.B. 313 details the manufacturer's liability. We have made the language narrow. The vehicles will not be on the road for some time.

David Goldwater (Google Inc.):

Nevada's continued attention to autonomous vehicles shows not only its commitment to safer and more efficient transportation, but also its commitment to expansion of the State's economy through thoughtful public policy. Nevada has been a leader in autonomous vehicle technology. We are the first state to recognize autonomous vehicles in statute. This has led to autonomous vehicle laws being passed in several states and continued work with relevant federal regulatory agencies. Nevada's action in the area of autonomous vehicles must be considered carefully. The eyes of the Nation are on us regarding laws concerning these vehicles. Upon first reading of S.B. 313, challenges and opportunities are evident. My client's legal analysis is not completed yet. I wish to continue working with the bill's sponsor and supporters to secure Nevada's

leadership in autonomous vehicle policy. The legal analysis will be ready soon, and I will share it immediately with all interested parties.

Chair Manendo:

Did you speak with the bill's sponsor, Senator Denis, about this delay?

Mr. Goldwater:

I spoke with the sponsor's chief of staff but was unable to reach the Senator.

Chair Manendo:

I will close the hearing on S.B. 313 and bring it back to the Committee for further discussion. Now I open the hearing on S.B. 317.

SENATE BILL 317: Revises provisions relating to franchises for sales of motor vehicles. (BDR 43-942)

Senator Denis:

I will read my prepared testimony ([Exhibit E](#)) in support of S.B. 317.

John P. Sande III (Nevada Franchised Auto Dealers Association):

Senate Bill 317 is a simple bill, and I do not know of any opposition to it. The proposed change to chapter 482 of the *Nevada Revised Statutes* (NRS) is found on page 2, lines 10 to 13, of the bill. In essence, the bill prevents a manufacturer from requiring a dealer to agree to a term or condition of a franchise agreement which violates or waives any provision of NRS 482. It further clarifies that such waivers are void and unenforceable.

There has been litigation about the meaning of the word "require" in Florida. Because of this, we want to clarify it in our statute. Does it mean a request for a waiver? Will a franchise be terminated if it refuses to comply with a requirement? The sponsor of the bill intends to ensure any waiver of provisions by a dealer is void in NRS 482. We suggest removing the word "such" on page 2, line 12 of the bill. This will clarify that any waiver is void and unenforceable and that litigation will not be necessary to prove the dealer was required to do this. We believe dealers always will be required to do this because a waiver is not involved unless a manufacturer specifically requires it. After speaking with the manufacturers, we have developed this suggested amendment.

Wayne Frediani (Nevada Franchised Auto Dealers Association):

The Nevada Franchised Auto Dealers Association supports the provision to amend S.B. 317 outlined by Mr. Sande.

Senator Hardy:

Your suggested wording, "Any waiver is void and unenforceable," without reference to the provisions of NRS 482.36311 to 482.36425 which appear in the previous sentence in section 1, subsection 3 of the bill, makes me uncomfortable. It seems we need legislative intent included to connect the two sentences. I realize you are an attorney. However, I become uncomfortable when I see a sentence disconnected from anything saying that any waiver is void and unenforceable. Can you provide me a level of comfort on this point?

Mr. Sande:

We want to clarify this point because there has been litigation concerning whether a dealer was required to agree to a term or condition of a franchise agreement. The law is clear. In my legal opinion, if litigation were to go before the Nevada Supreme Court, the decision would be that a manufacturer's request of a dealer to agree to a term or condition of a franchise agreement is the same as a requirement, because they are negotiating. We want to avoid future litigation over this issue. Senator Denis said the law is clear, and we agree with him. We believe we would prevail. Since there was litigation on this point in another state, we want to address it in the bill now. If the Legislative Counsel Bureau wishes to revise the language, I will be fine with it.

Senator Hardy:

Are you optimistic, as an attorney, that this provision will stop litigation of all kinds?

Mr. Sande:

Yes, I am especially optimistic with the legislative history. This has been vetted in other states. I want to make it clear, on the record, that any waiver is void and unenforceable.

Senator Hardy:

Are you referring to NRS 482.36311 to 482.36425, which are specified in S.B. 317?

Mr. Sande:

Yes.

Mr. Alonso:

The Alliance is neutral on S.B. 317. We have spoken with automobile dealers. The statute is clear, but we support the suggested clarification.

Senator Hardy:

Does your support include clarification of the words "such" or "any," as well as the relationship of these concepts?

Mr. Alonso:

The only concern we have is if a dealer is offered a program, for example, and absolutely cannot waive it under any circumstances. In that case, I would say "no." I accept the suggested language, however.

Chair Manendo:

I will close the hearing on S.B. 317 and bring it back to the Committee. I now reopen our work session, starting with S.B. 191.

SENATE BILL 191: Increases the maximum speed at which a person may drive or operate a vehicle. (BDR 43-729)

Mr. McDonald:

I will read from the work session document ([Exhibit F](#)) for S.B. 191, which was sponsored by Senator Gustavson.

Chair Manendo:

Senator Gustavson, would you walk us through your bill again?

Senator Gustavson:

This is enabling language, allowing the Nevada Department of Transportation (NDOT) to increase speed limits up to 80 or 85 miles per hour wherever determined reasonable and safe to do so. Parts of the highway system where an increase is anticipated are sections of Interstate 80 between Fernley and West Wendover and sections of Interstate 15 between Las Vegas and Mesquite. Other possible areas include parts of U.S. Highway 95 north of Las Vegas.

Chair Manendo:

Is it your understanding these would be the only places where the speed limit might be increased?

Senator Gustavson:

Yes, as far as it would be an increase to 80 or 85 miles per hour. The speed limit on parts of U.S. 95 between Reno and Las Vegas could be increased under existing law from 70 to 75 miles per hour. Decisions on any speed limit increases will be made by the NDOT.

Senator Spearman:

I have reservations about the safety of this measure. A few people who testified mentioned studies which indicate increased speed does not increase the number of fatalities. After further research, I found information contradicting these claims. I also have concerns about the impact of the speed limit increase on the trucking industry. While I understand the bill involves permissive language, how will increased speed limits affect costs to the industry? Studies have shown more fuel is used with increased speed.

Senator Gustavson:

This will not require trucks or other vehicles to drive faster. The trucking industry had concerns about speed differentials before higher speed limits were initiated in other states. It has not been a problem. Accident rates have gone down. I would like to see the information you have found.

Senator Spearman:

If I increase my speed when I drive, it does not affect other people. However, if increased speeds affect the cost of goods traveling through the State, I am concerned.

Senator Gustavson:

I would be concerned about this, too, if it were to occur. Many truck drivers will not increase their speeds. Those who do likely will be the independent drivers who will factor the cost of the fuel into their overall costs. They want to keep their costs down so they can make more money. I do not see this affecting them much.

Senator Hardy:

As I read the permissive language, I understand it to say the speeds can go up to, but not exceed, 85 miles per hour. There can be an opportunity to increase the speed limit incrementally and assess its effectiveness. Some of the other states have speed limits of 80 miles per hour. The permissive language allows the NDOT time to assess the impact of the change over time.

Chair Manendo:

As a public safety advocate, I see difficulties with the bill. However, I am willing to give the NDOT an opportunity to raise speed limits as they see fit. Many people will be watching—along with me—to see what happens to accident rates and speeds. Perhaps we should not endorse this policy. Many people already drive faster than the posted speed limits on open roads in the State and do well. There are other laws in place to protect people traveling on the roads. Senate Bill 191 will only apply to certain areas in Nevada.

SENATOR HARDY MOVED TO DO PASS S.B. 191.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SPEARMAN VOTED NO.)

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Chair Manendo:

The next bill in this work session is S.B. 143.

SENATE BILL 143: Revises provisions governing certain examinations for driver's licenses. (BDR 43-696)

Mr. McDonald:

I will read the work session document ([Exhibit G](#)) for S.B. 143.

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SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 143.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Manendo:

Seeing no further business, I adjourn the meeting at 9:06 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	3		Attendance Roster
S.B. 210	C	10	Jered McDonald	Work Session Document
S.B. 313	D	1	Senator Moises (Mo) Denis	Written Testimony
S.B. 317	E	1	Senator Moises (Mo) Denis	Written Testimony
S.B. 191	F	1	Jered McDonald	Work Session Document
S.B. 143	G	2	Jered McDonald	Work Session Document