

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

**Seventy-Eighth Session
March 31, 2015**

The Committee on Transportation was called to order by Chair Jim Wheeler at 4:11 p.m. on Tuesday, March 31, 2015, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website: www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jim Wheeler, Chair
Assemblywoman Jill Dickman, Vice Chair
Assemblyman Nelson Araujo
Assemblyman Richard Carrillo
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblyman Brent A. Jones
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman P.K. O'Neill
Assemblyman Stephen H. Silberkraus
Assemblywoman Ellen B. Spiegel
Assemblyman Michael C. Sprinkle

COMMITTEE MEMBERS ABSENT:

Assemblywoman Michele Fiore (excused)
Assemblywoman Melissa Woodbury (excused)

GUEST LEGISLATORS PRESENT:

None

Minutes ID: 700



STAFF MEMBERS PRESENT:

Michelle L. Van Geel, Committee Policy Analyst
Melissa M. Mundy, Committee Counsel
Joan Waldock, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

None

Chair Wheeler:

[Roll was taken and Committee rules and protocol were reviewed.]
Assembly Bill 398 has been taken off the Committee agenda for today. I will open the hearing on Assembly Bill 256.

Assembly Bill 256: Revises provisions relating to the privacy of certain information of a customer of a garage operator. (BDR 43-802)

Assemblyman Richard Carrillo, Assembly District No. 18:

Assembly Bill 256 originated with a constituent who called me about an extended warranty that he had received in the mail. Unfortunately, he did not save the example. However, in October 2011, I purchased a 2006 Chevrolet Express Cargo Van and it was not long after that I began receiving extended warranty offers. On the Nevada Electronic Legislative Information System (NELIS) there are copies of the warranties I received ([Exhibit C](#)), ([Exhibit D](#)), ([Exhibit E](#)), ([Exhibit F](#)), and ([Exhibit G](#)). Three of the five extended warranty offers are from 2012, and there is one from a constituent to show it was from the same warranty provider that I had also received offers from. The last warranty I received was in November 2014 ([Exhibit G](#)), which is two and a half years after I received the first one.

Many of the extended warranty solicitations make it appear that the warranty may have already expired or is about to expire. The last one I received ([Exhibit G](#)) says that if the owner of the vehicle chooses to neglect this coverage, they will be "financially liable for any and all high cost repairs once your factory warranty expires." I would normally throw these mail pieces away like many people that I know. The examples I have provided look official and as though they are coming from the Department of Motor Vehicles (DMV). The envelope and letterhead look official so that you are not tempted to throw it in the trash. I wondered how many people are taken in and purchase something they do not need. My concern is that an individual who has a vehicle that meets the criteria may be a candidate for this extended warranty solicitation.

They may not have family around and they might be on a fixed income. They might call the toll-free number on the extended warranty solicitation because their vehicle is the car they drive daily and something they want to take good care of.

Out of curiosity, on the last solicitation I received I called the toll-free number today, which is long after the warranty offer expired. I wanted to see what the process would be. Of course, the solicitation expiration date had already passed as you can see on the warranty ([Exhibit G](#)). It says I would have to act by December 25, 2014. When I talked to an agent on the phone, he said that since my current mileage is 151,000 miles, I would have to act today. Somehow, they could manage to ignore the expiration date and "fit me in." We discussed how much it would cost per month for a two year period: \$295 for the initial payment and \$232 for every payment after that for two years. I asked for the entire price, and he said it would cost me \$5,865 for the extended warranty. I only paid \$4,000 for this van in 2011, so I could not justify the expense of spending more than the cost of the vehicle.

There are varying parts of these extended warranties and there might be some legitimate companies out there that do this, but there are a lot of questionable practices and high-pressure sales tactics for which there is no regulation whatsoever. I sponsored Assembly Bill No. 165 of the 77th Session, which limited the purposes for which DMV can release personal information. It was information strictly limited to extended warranties and it did not deal with recalls because, of course, the last thing we want to do is affect any type of vehicle recalls. If you were to have an issue with your vehicle, you would still want to make sure that if there was a recall, the DMV would be able to get that information to you. That information might not come from the DMV. I was the third or fourth owner on one of the used vehicles I purchased and when I took it to the dealership, the only way they could determine the part number I was looking for was from the vehicle identification number (VIN). Then I found out there was a recall on the airbags that had not been fulfilled. There is a positive to this. The negative side is the actual extended warranties, and that is what this bill specifically addresses.

After looking at the bill, there are some changes that are necessary. It makes changes to *Nevada Revised Statutes* (NRS) Chapter 487 by requiring a garage operator to disclose to the customer that the sharing of personal information or the vehicle information for the purpose of marketing extended vehicle warranties requires the customer's consent. I want to add an amendment because the bill does not include smog testing stations or body shops.

Chair Wheeler:

Are you sure the sale of your address came from a repair shop and not, for example, from your insurance company who saw a possible new car to be insured?

Assemblyman Carrillo:

I was also looking at amending the insurance companies into this bill. When I proposed A.B. Bill No. 165 of the 77th Session there was a question about which jurisdiction it would have to go through—if it would be the Office of the Attorney General. After the interim, the DMV helped me find out it was something that would not have to go through the Office of the Attorney General. Ultimately, it could go through the insurance company as well. At your discretion and with your permission, I would like to include insurance companies as well.

Assemblywoman Spiegel:

These notices are really consumer unfriendly. I applaud your taking steps to right the wrongs. In section 1, subsection 1, you include a parent company. The parent company already owns the asset. The bill says, "A garage operator shall not sell or transfer the personal or vehicular information of a customer to any other person, including, without limitation, a parent company..." but since the parent company owns the garage, they also own that information asset. If they already own the asset, why are they not able to use it?

Assemblyman Carrillo:

When the bill was written, they were trying to ensure that it covered every person that would be along the line from the parent company. I am trying to understand your question about them already owning the information. If the information is already out there, you cannot bring it back.

Assemblywoman Spiegel:

For example, let us say there is a garage owned by Bob's Garage Corporation, which is a wholly owned subsidiary of the Jones Company. Since the Jones Company already owns all of Bob's Garage Corporation, it already has ownership of that asset. This bill would make it so they could not use an asset they own versus a franchiser or an affiliate where there is a step removed. There is a contractual relationship for working together, but there is not the ownership relationship. Of course, I think the way these solicitations are done is deplorable, but if the parent company already owns the asset, why can they not use it?

Assemblyman Carrillo:

The information that they have already received?

Assemblywoman Spiegel:

No, they own it.

Assemblyman Carrillo:

Are you referring to the customer's information?

Assemblywoman Spiegel:

Let us say you own a car. That also means that you own the brakes. If you have someone who is talking about the brakes, but you already own the car, you should be able to use the brakes because you own the entire car.

Chair Wheeler:

Our Committee Counsel, Ms. Mundy, is looking for the language. Does anyone else have any questions?

Assemblywoman Dickman:

I do not know anyone who would fall for this. I get these all the time and throw them in the trash. If you called to find out more about it and they said it was \$5,000, how many people do you know who are that naive who could afford it?

Chair Wheeler:

Older people.

Assemblywoman Dickman:

Yes, but they cannot afford it.

Assemblyman Carrillo:

If you push something far enough and long enough, someone will fall for it and it has paid for itself. This is not just in Nevada, it is throughout the entire country. If someone dies from something, we say it is one too many deaths. If one person buys this, it is one too many that may not need it. My concern is for consumer protection. You can buy it, but they are selling your information without your permission. You can give them permission to sell your information, there is no question about that. If you give them your information, I am not concerned. If you let them do it, this is the consequence of that. When I start getting information on a vehicle that I just purchased as a used vehicle and suddenly someone is trying to sell me warranties, I throw the solicitations in the trash. But there is that one person who may not. What happens if they are an individual who is more gullible and thinks they need it?

Assemblywoman Dickman:

First of all, if just a handful of people are hurt by this, I do not think it is cause for legislation. How are we going to stop these short of outlawing mailers?

They are going to find ways. I bought a used car a while back, the only place that we had ever had any information about the car was the dealer. I think we are going to have to go pretty far to make sure we cover everything.

Assemblyman Carrillo:

These are the steps that are being taken to make sure it does not happen. Again, this is consumer protection. This is to ensure that all of our constituents are not taken advantage of. At the end of the day, you are free to purchase anything you feel like buying, but when you call these people, they use high-pressure tactics. What is good today should be good tomorrow, a week from now, or a year from now. Why should I be pressured to buy something today because if I do not do it today, it is a no sell? They know once they are off the phone with you they lost a sale. It is no different than telemarketing. How many people are on the National Do Not Call Registry? Why do they have it? They do not want to be bothered. It is the same as this. Most people throw these in the trash can, but many do not and those are the people that I am concerned about. At the end of the day it is about free will. Maybe we should not be watching out for people, but then again why do we bother going through the process of getting elected to office?

Assemblyman O'Neill:

I get these all the time also and I throw them away, but I am so happy that you have brought this bill forward. For many years, I have said "If I ever get elected, I am going to outlaw these." Unfortunately, when I was working as an investigator we would regularly get calls on them, particularly in elder abuse crimes. They make them look as official as possible. The envelopes and the letterhead ([Exhibit G](#)) have the Great Seal of the United States on it. People actually thought the federal government was sending them. Is there any way that the presentation can be less formalized?

I will agree with Assemblywoman Dickman. I do not think that it is just the garages that are doing this. When you talked to the Legal Division, were there any other avenues in which to expand this? People purchase these and then call and make a police report when they found out what it was really costing them. There was nothing we could do at that point. The seller would make it plausible for the customer; they could pay for it on time. Elderly people in particular succumb to high-pressure tactics. Please help me help you help the citizens.

Assemblyman Carrillo:

This is protection and nothing personal. I am not there to be at everybody's front door and go through their mail and tell them what to read. Maybe we should have them use pink letterhead, it is more friendly and palatable. Maybe

they should use a horse instead of an eagle, so they do not look official. How do we dictate how they mail something? Public awareness is key to this. You have gotten complaints about this. Ultimately, who does this affect? As you said, it affects our elderly who may not have someone watching out for them. I am just trying to help people out. That is probably why I went through the process of getting elected and reelected over and over. What can we do about this? I am not sure how we stop it. There are a lot of loopholes in there.

Chair Wheeler:

Ms. Mundy wants to respond to Assemblywoman Spiegel's question from earlier.

Melissa M. Mundy, Committee Counsel:

I cannot specifically find where that language came from, but the bill prohibits a garage operator from selling or transferring personal or vehicular information to any person. We included the language, "without limitation, a parent company, franchisor, or affiliate of the garage operator...", as an example. I think the intent was to try to be as inclusive as possible relating to this prohibition. In the situation with a parent company, it may arguably be the transfer portion rather than the selling. If that is something that the Committee is uncomfortable with, we could amend out that language.

Assemblyman Silberkraus:

Thank you for bringing this forward. I think, as Assemblyman O'Neill has said, it is irritating to many people and troubling for many others. When I get these, 99 out of 100 of them go straight into the garbage bin, but every once in a while there is one that looks official and makes me take notice. When I open it, I realize it is wasting my time and I throw it away. I am concerned about the people who do not recognize that and do make these calls. I wonder if there is something more to legislate on the display side than on the source side. I think these companies will always find a way to get this information and harass people. I wonder if there is something we can do. They are a large commercial mailer, so obviously it goes to the post office and they are bulk mailing them. Maybe material for sales that are bulk mailed need to be labeled as advertisements. This goes beyond motor vehicles. It is a big issue, especially for our elderly. I would be interested in looking at ways to expand this to cover all areas, not just automobiles.

Assemblyman Flores:

If everyone on this Committee has received one of these letters, it is because they work. These companies would not be investing hundreds of thousands of dollars in mailings if they did not work. It is affecting hundreds of people constantly, and that is why they are doing it. It is not uncommon for us to

regulate this type of activity. In fact, the federal government does it all the time through consumer protection laws. It is great that the state does not have to wait. It is not an issue just in Nevada. It is great for the state to take some initiative and go after deceitful practices. We do that already for other things such as lawyers. They have to say that their advertisements are advertisements.

Assemblyman Silberkraus's suggestion is not bad. I think we do this already with other things when there is deceitful intent behind those actions. There is a lot of case law behind it. I would be more than willing to work with you on using some of the examples that we have now. For example, we regulate collection agencies. There are certain things they cannot put in their letters. You could create those types of rules for what could be put on this type of advertisement.

Chair Wheeler:

This is the question and answer period. Let us move on and actually ask questions.

Assemblyman Sprinkle:

Section 1, subsection 1, says, "A garage operator shall not sell or transfer.... I do not see anything in the bill about what happens if they breach that. Are there consequences already built into statute? Is it something we have not conceived yet? What happens if they do not do this? While we may put this into statute saying they cannot do this, if there is nothing to hold their feet to the fire, I am not sure why they would care.

Melissa Mundy:

Sections 12 and 13 of the bill apply to penalties. Section 12 is a civil penalty of not more than \$500 for each offense, and section 13 provides that a person who commits a violation is guilty of a misdemeanor.

Assemblyman Jones:

What you are talking about is regulating commercial free speech, to a degree. Have you asked the Legislative Counsel Bureau (LCB) about the legality of this? Are you going to outlaw all telemarketers, Publishers Clearing House, gym flyers, home warranties, et cetera? Have you checked into the legality of commercial free speech?

Assemblyman Carrillo:

I personally have not checked with the LCB for a legal opinion. Maybe they would like to mention something for the record. There could possibly be some effects regarding free speech. The concern was trying to prevent people from

being defrauded. People can say yes or no, but as Assemblyman O'Neill said, the concern is that sometimes people do not know how to say no. If you have some suggestions to prevent people from being defrauded, I would like to hear them. If you look at the mail pieces, there is no return address and it does not say where they are from or where they call from. The gentleman I talked to this afternoon did not tell me where he was from. It is funny how quickly they have no problem not identifying themselves other than they are a company who sells extended warranties. They can do it, but why do they go through so much effort to try to sell an extended warranty that some people really do not need? If you do need one, you can buy one through the dealer and keep the business in Nevada.

Melissa Mundy:

As the bill is written now there are not any problems; however, we could look into it more to see if there are any other legal issues.

Chair Wheeler:

Please look into it further for edification if nothing else. It was an interesting question.

Assemblyman Jones:

There is the potential belief that this is fraud. We do have statutes that can be used if it is actually fraud. If it is fraud, and they are not providing us service and it is not a legitimate company, there are other statutes. If this is a legitimate company being creative with its marketing, it is another issue.

Assemblywoman Spiegel:

Assemblyman Carrillo, would you consider working with me on this bill? I have some ideas that I think will address several of the concerns.

Assemblyman Carrillo:

I am willing to work with everybody on the Committee on this bill because, ultimately, what it comes down to is protecting the constituents of everyone on this Committee. This is not self-serving legislation. I do not have a different type of warranty company here in Nevada that I can try to get people to buy my warranties instead of going out of state and calling these others. There is no malicious intent here. If anybody wants to buy these warranties, they are more than welcome to. Do we have to wait, as Assemblyman O'Neill said, for fraud to be committed and then have to try and get some senior citizen's \$4,000 back, or can we try to do some prevention beforehand?

Assemblyman O'Neill:

Ms. Mundy, going along with Assemblyman Jones's comment, is it interference with interstate commerce if we require that there be larger print saying that this is an advertisement required for mailings to Nevada? Is there a way we can allow the purchaser to rescind their agreement after a 72-hour cooling off period?

Melissa Mundy:

We would need to look into that further and get back with you.

Assemblywoman Dickman:

I do not think anyone is suggesting that this is a personal issue for you. I know you are just trying to help people. But if we are going to legislate everything to stop these things from happening to people, why stop with this? You brought up warranties through dealers. I have bought them before and they are a rip off, too, so maybe we should look at those also. I agree with Assemblyman Jones, there are so many things that people get that they need to be protected from, but we cannot legislate everything. Do you know if any other state has done something like this?

Assemblyman Carrillo:

I do not have that information currently. Maybe I am trying to be a pioneer with this. Give me a few days, I will see what I can do.

Assemblyman Silberkraus:

Is there a definition for what an extended vehicle warranty is?

Assemblyman Carrillo:

An extended warranty is beyond what is considered the factory warranty. It is after your factory warranty runs out. Often, there may be a 75,000 mile warranty from the factory, and anything beyond that is an extension. That is why it is more expensive. After your dealer warranty expires, the purchase of any repairs will be out of pocket. They serve a purpose, there is no question about that, but then why are the high-pressure tactics necessary to make sure the product is sold today?

Assemblyman Silberkraus:

I am assuming the intention there is for total vehicle warranties as opposed to extended warranties for specific parts of the vehicle. Say someone offers me an extended warranty on just the transmission. I go into a transmission shop, and the parent company offers me the extended warranty. Would that be on the total vehicle?

Assemblyman Carrillo:

The warranties are different. For instance, one of the warranties ([Exhibit G](#)) covers, "Engine, Transmission, Transfer Unit of 4x4, Drive Axle...." It pretty much covers the major components and goes as far as seals, gaskets, brake system, et cetera. It covers a lot of specifics, and if I had actually purchased this warranty for \$5,865 today, I would probably have gotten a more specific list of what that warranty would have covered.

Chair Wheeler:

I think this bill actually affects the sale of information to a warranty company. The scenario that Assemblyman Silberkraus is talking about is going into a shop and buying a warranty on a transmission that he just bought. I think we are comparing apples and oranges, would you agree?

Assemblyman Silberkraus:

I was trying to build off of what Assemblywoman Spiegel had said earlier about a franchisee. Say it is a national chain, and the national chain advertised that they offered that service to you as a customer through the franchise if it was for a very specific part. Say it was a brake shop where you get one of those "brakes for life" plans versus a total coverage of the vehicle.

Assemblyman Carrillo:

When I talked to this individual earlier, he said you could take the vehicle to any number of different dealerships. The offer was not specific as to where it has to be taken. It sounded like you could take it anywhere as long as you could show the warranty was in effect.

Assemblyman Silberkraus:

We can talk later.

Chair Wheeler:

Section 1, subsection 2, says, "A garage operator shall not refuse service to a customer or charge a customer an additional charge or fee based on the refusal of the customer...." How do you know if they raise the fee or not? You take your car in, they ask you to sign up for the warranty, you say no, they give you your estimate, so how do you know?

Assemblyman Carrillo:

Basically, if you go to a repair shop, they have a written estimate and a "does not exceed" clause. It is almost like the cost of the repair is based on the attitude of the customer. That language would apply if it says \$17.99 for an oil change and then all of a sudden the price just went up. At the lube garage

they have a specific price and if they did that, you would walk away and go to another place. Most places have a specific price. I do not think it is up to the garage to be changing. My first response would be to walk away.

Chair Wheeler:

Are there any more questions from the Committee? [There were none.] Is anyone here to testify in favor of A.B. 256? [There was no one.] Is there anyone in opposition to A.B. 256? [There was no one.] Is anyone neutral? [There was no one.] I will close the hearing on A.B. 256. Is there any public comment? [There was none.] The meeting is adjourned [at 5:01 p.m.].

RESPECTFULLY SUBMITTED:

Joan Waldock,
Recording Secretary

Henri Stone,
Transcribing Secretary

APPROVED BY:

Assemblyman Jim Wheeler, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: March 31, 2015

Time of Meeting: 4:11 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 256	C	Assemblyman Carrillo	Warranty Example 6/2012
A.B. 256	D	Assemblyman Carrillo	Warranty Example 7/2012
A.B. 256	E	Assemblyman Carrillo	Warranty Example 8/2012
A.B. 256	F	Assemblyman Carrillo	Constituent Warranty Example 4/2012
A.B. 256	G	Assemblyman Carrillo	Warranty Example 11/2014