

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

**Seventy-Ninth Session
April 27, 2017**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 3:14 p.m. on Thursday, April 27, 2017, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Richard Carrillo, Chairman
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman John Ellison
Assemblyman Ozzie Fumo
Assemblyman Richard McArthur
Assemblyman Justin Watkins
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblywoman Daniele Monroe-Moreno (excused)
Assemblyman Michael C. Sprinkle (excused)

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Senate District No. 21

STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Darcy Johnson, Committee Counsel
Joan Waldock, Committee Secretary
Trinity Thom, Committee Assistant



OTHERS PRESENT:

J. Pat Gallagher, representing Nevada Traffic Incident Management Coalition
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association
Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association
Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers
John Fudenberg, Coroner, representing Clark County
Corey Solferino, Sergeant, Legislative Liaison, Washoe County Sheriff's Office
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Deborah A. Kuhls, M.D., University Medical Center, Las Vegas, Nevada; and President, Nevada Chapter American College of Surgeons
Erin Breen, Director, Vulnerable Road Users Project, Transportation Research Center, University of Nevada, Las Vegas
Reid G. Kaiser, P.E., Assistant Director, Operations, Director's Office, Department of Transportation
Sean Sever, Communications Director, Communications Division, Department of Transportation
Laura Gryder, Project Director, Center for Traffic Safety Research, University of Nevada, Reno, School of Medicine
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Pete Vander Aa, Program Administrator, Program for the Education of Motorcycle Riders, Office of Traffic Safety, Department of Public Safety

Chairman Carrillo:

[Roll was called. Committee protocols and rules were explained.] We will open the hearing on Senate Bill 312 (1st Reprint).

Senate Bill 312 (1st Reprint): Revises provisions relating to driving under certain conditions. (BDR 43-94)

Senator Mark A. Manendo, Senate District No. 21:

Thank you for hearing Senate Bill 312 (1st Reprint) today. As most of you know, I have been a huge supporter of public safety for most of my life. I do everything I possibly can to bring forward legislation that improves public safety. This bill, concerning our first responders, is no exception. That is the reason I am sponsoring this bill.

Senate Bill 312 (R1), the Nevada Traffic Incident Management (TIM) Coalition legislation, is the result of having an opportunity to work with first responders in northern and southern Nevada, discussing how we can improve public safety through legislation to ensure that our first responders go home to their families at night.

The TIM bill introduces minor changes to existing law that: support safe, quick clearance of our roadway crashes; clean up some language to include protection for incident responders that work for authorized municipalities; and provide legal authority and protection from liability for removal of overturned trucks and cargo expeditiously from travel lanes.

The bill addresses the two issues brought forth by this Committee during the introduction of Assembly Bill 17, an earlier version of the TIM bill, by:

- Providing a definition of "traffic incident management" and providing a frame of reference when amber flashing lights are acceptable to use to protect responders from municipalities, contractors, and others when they are engaged in responding to an incident; and
- Protecting someone changing a tire alongside the roadway.

Virtually all the changes are national best practices for improving the chances of reducing secondary crashes. The statistics of the crashes are staggering while our ability to improve these numbers is within our authority.

We face a safety challenge. The following facts make the legislation important for safe, quick clearance of our crashes:

- National studies show that every minute a crash remains on the roadway, the chances of a secondary crash increase by 2.8 percent.
- For every one minute a road is blocked, it takes four minutes to clear the road. For every 10 minutes that an accident blocks the road, it takes 40 minutes to clear the traffic queue.
- An average of 22 percent of all crashes are secondary, the result of the first crash not being cleared. Of those secondary crashes, as many as 18 percent are fatality crashes.

The proposed TIM modifications to *Nevada Revised Statutes* (NRS) are minor, but will yield a major impact. We believe that we can help prevent secondary crashes through this legislation. With the permission of the Chairman, we have J. Pat Gallagher here to walk us through the specifics of the bill. He will answer your questions.

J. Pat Gallagher, representing Nevada Traffic Incident Management Coalition:

I am here today to speak of the Nevada Traffic Incident Management (TIM) Coalition. My background is 26 years with the Nevada Highway Patrol. I served all over the state of Nevada and retired as the major of the Southern Command in May of last year. For the past year, I have had the opportunity to work with the TIM Coalition on behalf of Parsons, under contract with the Nevada Department of Transportation (NDOT).

If we can predict an event, we can prevent it. A lot of what TIM focuses on is safe, quick clearance, as Senator Manendo presented. The TIM Coalition is focused on secondary crashes because we can predict that the longer a crash is in the road, our chances for secondary crashes increase.

The TIM Coalition requested S.B. 312 (R1) because it provides protection to all incident responders while they are doing their jobs—relocating vehicles, removing debris, repairing, and clearing the roads. National statistics show that an average of 5 police, 3 firefighter personnel, 60 tow truck workers, and an unknown number of public works or maintenance workers are killed every year in our country while working traffic incidents on our roadways. I refer back to Senator Manendo's statistics from secondary crashes. We must do all that we can to mitigate these crashes.

In my experience as a law enforcement officer working with multi-disciplinary incident response agencies, the changes provided through S.B. 312 (R1) are necessary. I will go over a few of the changes we are proposing.

Nevada Revised Statutes 484B.267, also known as the "move over" law or "lane plus one" requires motorists to yield the right of way and not overtake an authorized emergency vehicle or an official vehicle of a regulatory agency making use of flashing lights, which is moving in any direction, arriving at or leaving the scene of a crash. This also protects our partner incident response agencies such as city and county maintenance, freeway service patrol, city and county law enforcement, and firefighters that are arriving at, departing, or working at the scene of a crash or incident. Changes through S.B. 312 (R1) will also protect contractors working at or along the roadside, preparing to leave or enter an incident site. What I mean by the contractors are the hazardous materials folks out there cleaning up the scenes.

Section 2 of S.B. 312 (R1) amends NRS 484B.443 to provide authority to law enforcement for the immediate removal of unattended or disabled vehicles upon a highway, bridge or causeway, or in a tunnel where the vehicle constitutes an obstruction to traffic or interferes with the normal flow of traffic. Law enforcement may provide for the removal of the vehicle and the immediate removal of any spilled cargo of a vehicle and any other property that is obstructing traffic or otherwise interfering with the flow of traffic under the "unified command" system, which we have defined in the bill [section 2, subsection 7, paragraph (b)]. It also states that a law enforcement agency (1) is not liable for any damage to the vehicle, cargo, or property that results from removal; and (2) must attempt to notify as soon as practicable the owner of the vehicle, cargo, or property if the owner is not present. Changes also provide that the cost of the removal must be borne by the owner of the vehicle.

Section 4 of S.B. 312 (R1) amends subsection 1 of NRS 484B.607.1 to change a "peace officer" to "law enforcement officer." These changes are consistent with national best practice nomenclature encompassing all state and municipal law enforcement. *Nevada Revised Statutes* 484B.607.1(a)(2) would be amended to remove the requirement to travel at "... less than the posted speed limit;" because every incident is different, slowing could create more congestion and the term "reasonable and proper" as used in subparagraph (1) is sufficient and more appropriate.

Senate Bill 312 (1st Reprint) would amend NRS 484B.607.1(d), to change the focus of where to leave a safety lane open—away from emergency vehicles—and require motorists to leave

a safety lane open adjacent to where the traffic incident is located. By making the focus the traffic incident and not just emergency and towing vehicles, it protects all the responders working those scenes.

Section 4, subsection 3 of S.B. 312 (R1) is new and defines "traffic incident" as meaning ". . . any vehicle, person, condition or other traffic hazard which is located on or near a roadway and which poses a danger to the flow of traffic or to a person involved in, responding to or assisting with the traffic hazard." These changes are necessary to expand the safety parameters from emergency vehicles to include authorized vehicles of local government, public utilities, and vehicles using amber lighting while mitigating a traffic incident.

Section 5 of S.B. 312 (R1) amends NRS 484E.020, also known as the "Move It" law, to include national best practice language for moving vehicles out of travel lanes to a safe location. It removes the requirement for the motorist to remain at the scene of a non-injury crash because it is not safe to remain on the road. It also calls out that it is a misdemeanor for motorists not to relocate vehicles to minimize interference with the free movement of traffic.

Assemblyman Wheeler:

I am looking at section 1, subsection 2. It begins, "Upon approaching an authorized emergency vehicle or an official vehicle of a regulatory agency" Is there a definition in NRS of what a "regulatory agency" is? Even though you and I may know what that is, I can imagine an attorney quibbling about whether a vehicle is from a regulatory agency.

J. Pat Gallagher:

I believe there is a definition in statute. If there is not, we absolutely need to put that in here. We did encompass all authorized official vehicles under public authority for that reason. It is well known that the city, county, municipalities, and those people are authorized.

Darcy Johnson, Committee Counsel:

There is a definition of "regulatory agency" in NRS. As soon as I find it, I will read it for you.

Assemblyman Ellison:

I often see law enforcement personnel, with lights and sirens, trying to get to an accident, but there are motorists who will not pull over. Law enforcement officers cannot stop to cite them. Is there a way the dashboard cameras could get a picture of violators, and they could get a ticket by mail? Is there anything in the law that would allow for ticketing offenders?

J. Pat Gallagher:

I spent many years behind the wheel of a police car and on a motorcycle. Unfortunately, lights and sirens are not very effective any longer because of distracted driving and earpieces worn by drivers. I do not believe that current statutes would allow for dashboard cameras to be used in that way. There is one problem I can envision already—you would not be able to identify the driver of the vehicle. You would only be able to identify the car. It is an issue;

statute already states that you are to move away from an approaching emergency vehicle. There are difficult times when police officers, law enforcement, and emergency medical services are unable to reach an incident because drivers do not move out of the way.

Assemblyman Watkins:

My question is in regards to the intent of the applicability to the vehicles along the lines of what Assemblyman Wheeler asked. I think the intent is that it would include any vehicles authorized by a responding entity, which could be a private contractor who went to an incident to clean up a spill or anyone directed by law enforcement. I think you captured that in section 4, but I do not know that we get there in section 1. Do you think you have encompassed that definition in section 1? If you have, could you point me to where you think that is? The reason I think you got there in section 4 is you referenced NRS 484D.185 and NRS 484D.195, and you state that it is at the direction of local government agency or NDOT. We do not have those definitions in section 1.

J. Pat Gallagher:

We had this discussion regarding Assembly Bill 17. I thought we did a really good job in crafting this with the assistance of the Legislative Counsel Bureau (LCB) to encompass those folks. I am not sure how to answer your question.

Assemblyman Watkins:

You came to me before the meeting to ask me if I had any problems with the bill, but it was Assemblyman Wheeler's question that led me there. Section 4 does such a great job of defining all the different types of vehicles that you have to avoid, but section 4 is dealing with the "move over" portion of the statute. Section 1 is dealing with something else. I think we agree on intent. We mean for this bill to capture anyone who may be a private contractor doing work at the instruction of local government.

J. Pat Gallagher:

Not so much the construction, but working at the actual traffic incident.

Assemblyman Watkins:

In a car accident, there may be a spill, leaving debris on the roadway. Local government may send private enterprise to clean up. We want those guys protected in the same way as emergency or official personnel. They are working at a traffic incident site. We need to make sure that everybody slows down and uses caution. Section 1 discusses how to approach and treat the different vehicles. I do not think we give the definition of those independent contractors like we do in section 4 when it talks about what maneuvers to make.

J. Pat Gallagher:

It would be difficult to identify each and every vendor. For instance, NDOT currently uses a company called Clean Harbors as their hazardous materials clean up contractor. I think they are under contract for the next two years of a four-year contract. The statute would have to be continually updated to include the name of the actual vendors. We did a pretty good job of identifying vendors and contractors utilized to mitigate a traffic incident management

scene. We know and can identify those folks while they are working the scene—they are the ones wearing the Class 2 fluorescent vests working with law enforcement and fire department personnel to mitigate the scene. I think it would be difficult to change the statute every time there was a new vendor. We are in partnership with the Nevada Chapter of Associated General Contractors because they have the ability to bring out heavy equipment. If we have a major collapse or a significant incident with a heavy truck—we would use those folks to clean up that incident. We identify them from law enforcement, or whomever the unified command defines, and then bring them out. When they show up, they are technically vendors working an incident.

Assemblyman Watkins:

As you talked through your answer, I realized how I misinterpreted the bill. It now makes sense. The first section deals with emergency vehicles; contractors would not be included in the definition. Section 4 is talking about a traffic incident, which does include all those subcontractors.

Assemblywoman Spiegel:

Would this bill also cover a Good Samaritan? A motorist might see somebody in a single vehicle crash on a highway with no one else around to help. This Good Samaritan might get out to help or to pick up debris while calling 911. Would this cover that type of scenario?

J. Pat Gallagher:

The way the bill is written—we specify flashing lights. I do not think most cars have flashing amber lights. I think under the protection that we added regarding someone providing maintenance, a person who is out of his or her vehicle attending to repair the vehicle might also fall under a Good Samaritan. This often happens before law enforcement or the fire department shows up.

Assemblywoman Spiegel:

So you do think that is covered.

J. Pat Gallagher:

Yes.

Chairman Carrillo:

I know this section was added by the Senate. I know that the enforcement side is already in another chapter of NRS. This would deal with an incident in which someone did not slow down or clipped a person who was trying to assist a motorist changing a flat tire. I have seen YouTube videos where a car was stalled in the middle of a freeway at night. It had its

emergency flashers on but was rear-ended by a car, which was rear-ended by another. When you have a situation like that, who would be at fault? Who would be liable? The car that stalled in the middle of the freeway was not off to the shoulder, and the driver could not safely exit his car to make his way to the side of the road. Can you speak to that?

J. Pat Gallagher:

There is a gamut of scenarios you just ran through. I could add about 100 more that I have seen. You brought in nighttime, whether or not flashers were on, a stalled vehicle in the travel lane on the crest of a hill or on a curve—there are all kinds of things. Technically, the way I understand it through statute, a motorist cannot run into a stalled vehicle. I would not be able to say whether the striking vehicle or the stalled vehicle was at fault. I would have to see the thorough investigation to determine that. It happens. There are other things that occur—does the driver approaching the stalled vehicle have an avenue of escape? Is the flow of traffic too fast so there is no good line of sight? In traffic crashes, in all the investigations I have done, never are two the same. There is always a variable—human error, mechanical error, environmental conditions—something changes the dynamics of the investigation and makes an officer realize things are not what they seemed upon arrival on scene. A seemingly simple rear-ender on the freeway may instead be a situation in which the driver you thought was at fault was not, because the car run into was in reverse running down the shoulder.

Chairman Carrillo:

Are there any other questions from Committee members? [There were none.] We will now take testimony in support of S.B. 312 (R1).

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We appreciate Senator Manendo bringing this bill forward. We support the language of this bill. As a motor officer on a traffic stop, my motorcycle was hit and slammed into me. It would be nice if people paid attention on the road. I think this bill would be helpful.

Michael Sean Giurlani, President, Nevada State Law Enforcement Officers' Association:

I am member of the Nevada State Law Enforcement Coalition. I am a 25-year veteran of the Nevada Highway Patrol and had the privilege of working with Pat Gallagher over the years. We wholeheartedly support this bill. I think it is way overdue. I survived many close encounters. Three of my patrol cars were totaled as a result of being hit—one was at Tahoe, one on Lakeview Hill.

You cannot cure stupid. We try every way we can to do that in order to mitigate these accidents, but they happen. This law would give us a little more bite, and people might pay a little more attention when they see the amber lights or the red and blue lights. Motorists might give way to tow trucks, law enforcement officers, and the like.

When I taught at the Northern Nevada Law Enforcement Academy, I made it a point while teaching traffic stops to emphasize that officers approach on the passenger side for this very reason. The last thing an officer needs to worry about is if a vehicle is coming up behind him when he is facing the unknown in the vehicle in front of him. On Interstate 215, when you are making contact with a driver on a traffic stop, you cannot make a passenger side approach. You have to have your head on a swivel. This allows officers a little more leeway to do their jobs safely. Educating the public on a bill like this is paramount.

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:

I am a member of the Nevada Law Enforcement Coalition. Our thanks to Senator Manendo for bringing forth this bill and to Mr. Gallagher for the walk-through. This is a true public safety bill. This bill protects both first responders and the public. You cannot get any better than that. This bill contemplates emergency situations and creates rules of the road to keep everybody safe. I cannot imagine there would be an argument anyone could have against that. We wholeheartedly support S.B. 312 (R1). We urge this Committee to pass it.

John Fudenberg, Coroner, representing Clark County:

We support the bill for all the reasons that have already been mentioned.

Corey Solferino, Sergeant, Legislative Liaison, Washoe County Sheriff's Office:

We, too, come to the table in support of S.B. 312 (R1).

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

I am here in support.

Deborah A. Kuhls, M.D., President, Nevada Chapter American College of Surgeons:

I am a trauma surgeon at University Medical Center in Las Vegas, and president of the Nevada Chapter of the American College of Surgeons. We strongly support this bill. It should lead to fewer injuries and deaths among civilians and those in the line of service.

Erin Breen, Director, Vulnerable Road Users Project, Transportation Research Center, University of Nevada, Las Vegas:

Me, too.

Chairman Carrillo:

Is there opposition in Carson City? [There was none.] Is there opposition in Las Vegas? [There was none] Is there anybody neutral?

Reid G. Kaiser, P.E., Assistant Director, Operations, Director's Office, Department of Transportation:

I want to thank Senator Manendo for using one of his bill draft requests to put this legislation forward. We at the Department appreciate it and think this is good law to be put into NRS.

This legislation will protect Nevada's first responders when they are at a freeway accident site, along with reducing traffic delay by reducing the amount of time required to clear these accidents off our freeways. Here are some facts related to highway incidents on America's freeways, taken from a Federal Highway Administration website:

- Traffic incidents are the leading cause of death for emergency medical services responders and law enforcement officers.
- Traffic incidents account for up to one-fourth of all congestion on our freeways, due to rubbernecking and blocked lanes.
- The average motorist loses nearly a full workweek (36 hours) every year sitting in traffic due to traffic incidents.
- Americans burn more than 2.8 million gallons of fuel every year stuck in incident-related traffic.
- Reduced idling means reduced emissions and cleaner air.

This concludes my testimony. I am happy to answer any questions you might have on how this legislation relates to NDOT.

Chairman Carrillo:

I believe this bill would go into effect October 1. Most new laws go into effect on January 1. There are often public service announcements (PSAs) to alert drivers of the change. Drivers need to be aware that they can be cited for not moving over from road incidents.

Sean Sever, Communications Director, Communications Division, Department of Transportation:

We believe we can cover this with our Zero Fatalities campaign, which has been seen by over 90 percent of Nevadans. We also have 20,000 followers on Twitter, so we will be getting the word out if this bill passes.

Reid Kaiser:

We can also place it on our message boards. We put up messages so that travelers will know changes that we make or that there is road construction ahead.

Chairman Carrillo:

Is anyone in neutral in southern Nevada? [There was no one.] Are there any closing remarks? I apologize—I was going to ask you about how to educate the public on this, but NDOT does PSAs. We touched on it when we heard Assembly Bill 17.

J. Pat Gallagher:

Yesterday afternoon, I went to NDOT's Traffic Operations Center. These are the safety crews; they make sure of all the signage. I met with the assistant chief of operations and some of his staff. We discussed the new signage for this specific law—how it will be placed and what the wording will be. There have been six or seven different drafts of the language that we worked through. I was hoping to bring something to show you today, but it has not been approved through the chain of command at NDOT. We are working on notifying and educating the public about the law.

Chairman Carrillo:

Our counsel has an answer for Assemblyman Wheeler.

Darcy Johnson:

Assemblyman Wheeler asked what the definition of a regulatory agency is. The term is used in section 1 of S.B. 312 (R1). "Regulatory agency" is defined for the entire title: Any agencies that are granted policy or enforcement powers are regulatory agencies. That includes peace officers, park rangers, Department of Motor Vehicles (DMV) inspectors, game wardens, brand inspectors, and some people from the Nevada Transportation Authority who have enforcement powers over taxicabs and transportation network companies. It is basically people with police powers or enforcement powers.

Assemblyman Wheeler:

Thank you. Can you reference the section in NRS?

Darcy Johnson:

You will find it in NRS 484A.205.

Senator Manendo:

In addition to this room being the safest room in the building today, I want to say what an honor it is to bring forth this piece of legislation on behalf of our communities, our first responders, and our law enforcement agencies. We brought the A-Team here and to Las Vegas to give you a thorough hearing. This is a big piece of legislation, and I am honored to have sponsored this. Mr. Chairman, I appreciate your leadership in public safety as well as the Committee doing their due diligence today. I am so grateful we have Darcy Johnson working on both sides, in the Senate and the Assembly. We appreciate her legal mind.

Chairman Carrillo:

We will close the hearing on S.B. 312 (R1) and open the hearing on Senate Bill 426.

Senate Bill 426: Requires drivers and passengers of mopeds and trimobiles to wear protective headgear. (BDR 43-1011)

Senator Mark A. Manendo, Senate District No. 21:

This was a Senate Committee on Transportation bill that I was asked to bring forward. From 2006 to 2010, there were 362 injuries and 9 deaths due to scooter and moped crashes. In 2016 there were 14 moped deaths, an increase from 6 moped deaths in 2015.

Under current law, *Nevada Revised Statutes* (NRS) 482.069 defines a "moped" as a motor-driven scooter that is propelled by a small engine which produces not more than 2 gross brake horsepower, has a displacement of not more than 50 cubic centimeters or produces no more than 1500 watts final output, and is capable of a maximum speed of 30 mph. These vehicles currently are exempt from laws that require proof of insurance and helmet use.

Working with the Traffic Safety Coalition and Erin Breen of the Vulnerable Road Users Project during the interim, we discussed this piece of legislation. I appreciate your Committee hearing this bill. I note that Dr. Deborah Kuhls will be walking us through the bill. She has a lot of good information for you.

We see the carnage that takes place on the streets all too often. I understand the argument about personal responsibility, but people not having insurance are using our roadways. Sometimes drivers are intoxicated. I have seen people on scooters texting while driving. I have seen people on scooters drinking forty-ounce beverages as they drive down the road. When they crash, they go to the University Medical Center (UMC) and cost us a ton of money. I think it should be their responsibility at least to wear a helmet when riding their scooters.

There will be times when the helmets do not matter. One piece of legislation is not going to cure everything, but it might prevent someone from dying or from sustaining life-threatening injuries. My brother-in-law was on a motorcycle when a car pulled out in front of him. He went flying over his motorcycle and the car. If he had not had his helmet on, my nephews would not be here today. Whether at 20, 30, or 50 miles per hour—riders need to wear helmets.

**Deborah A. Kuhls, M.D., University Medical Center, Las Vegas, Nevada; and
President, Nevada Chapter American College of Surgeons:**

We prepared a PowerPoint presentation which should be available to you on Nevada Electronic Legislative Information System (NELIS) ([Exhibit C](#)). I have been a trauma

surgeon at University Medical Center for almost 17 years. To my left is Laura Gryder, who is the project director for our Office of Traffic Safety Grant that supports our collecting and analyzing the data.

If you will go to "Moped Crashes in Nevada" [(slide 3, [Exhibit C](#))], you will see that we have given three examples of moped crashes. They all resulted in serious injuries or deaths. This is an all-too-common occurrence. In my 17 years in the trauma center, I have treated well over 100 of the patients represented here. Slide 4 gives us a reminder of what scooters look like. They are fuel-efficient and are less expensive than motorcycles. Although we do not know the reasons people purchase them, those are probably not minor considerations.

Slide 5 gives us an idea of moped helmet laws throughout the country. Nine states require them for all ages. States represented in the lighter orange color have helmet laws, but those laws may not apply to all riders. Slide 6 reflects the data referred to previously by Senator Manendo. The number of deaths has increased dramatically. In a five-year period, from 2006 to 2010, there were nine deaths recorded. For the single year of 2016, there were 14 moped deaths. Scooters are becoming much more popular.

On slide 7, we look at injuries. The percentage of riders who wear helmets in states that do not mandate them is in the low teens. Hawaii, which does not require helmets, has a statistically significant increase in head injuries compared to those who were helmeted. The majority of people who are injured are white males.

On slide 9, you will see some of the Nevada data. The number of crashes is greater in the south, specifically in Las Vegas. This is a resident issue—not a tourist issue—very few people from out of state are injured and end up in trauma centers. The data we are presenting is from the four trauma centers in Nevada.

The average age for a moped trauma patient in Nevada is 38 years. If you look on slide 10, the distribution by age graph shows that we have a significant number of people who are well into adulthood who are on mopeds and get into crashes—82 percent are between the ages of 20 and 64. At UMC, we have noticed an uptick in older adults on mopeds. We are not sure why, but economics might be part of the reason. Slide 11 reinforces that many more males than females are injured while riding scooters. This is also common in all types of trauma. When we look at race and ethnicity [slide 12], over 70 percent of moped trauma patients are white.

Slide 13 talks about medical insurance. If we look at people who do not have medical insurance who are injured in moped crashes, 67 percent were not wearing helmets. We also did an analysis that is not displayed here, showing that about 57 percent of those with medical insurance were not wearing helmets. Regardless of medical insurance, more than half of moped riders do not wear helmets.

If we compared motorcycle helmet use to moped helmet use [slide 14], we can see that in Nevada only about 10 percent of patients injured on motorcycles did not wear helmets. We see a much larger percentage among moped injuries—about 65 percent overall did not wear helmets. When we calculate an odds ratio, motorcyclists are 16 times more likely to wear helmets than moped riders. That is an important number to keep in mind.

In the medical field, we look at whether patients require intensive care unit (ICU) admission as a surrogate for how seriously injured they are. We can see that those without helmets are more likely to require ICU admission. They are, in fact, more badly injured. Slide 16 looks at the body parts that are injured. We see that the highest number of injuries is to extremities, followed by head and neck injuries. That is similar to what happens in motorcycle crashes. These people are extremely vulnerable. About a quarter of them have head injuries, many of which could be averted with the use of helmets.

Slide 17 represents the economic burden. We look at the loss of productive lives and the loss of productive years of one's life as being paramount to financial considerations. Hospital charges due to moped crashes were about \$12 million in 2012 to 2014. It is a significant economic burden as well.

As a trauma surgeon, I have often seen these patients struggling economically, struggling to keep their families together, and struggling to keep their apartments or houses paid for. When they are injured, losing whatever source of income they have, they live on the edge. Many of them talk to us in the hospital about their need to get out, to pay the rent, or their lives will fall apart. In addition to injury data, these are vulnerable people who are at more risk than they realize by not wearing helmets.

That concludes my remarks. I strongly support this legislation. We are happy that it has moved forward.

Assemblywoman Spiegel:

I have a question about slide 13. Do you know when that data was collected? How did the insurance rates of those who were counted in this group compare to the prevalence of insurance across Nevada at the same time?

Deborah Kuhls:

The data is from 2012 to 2014. With the Affordable Care Act (ACA), more people are provided with health insurance options. I do not have an exact number, but about 70 percent of our trauma patients overall are insured now. That is a huge increase compared to pre-ACA years.

Assemblywoman Spiegel:

Is it more likely that people who do not wear helmets do not have insurance or are they on par with, or more insured than, the general population?

Deborah Kuhls:

If you look at slide 13, we have 67 percent of riders not wearing helmets. These are people without insurance. If we look at people with insurance, it is 56.3 percent not wearing helmets.

Assemblywoman Spiegel:

May I clarify that? For those with medical insurance, 56.3 percent do not wear helmets?

Assemblyman Watkins:

I think the crux of this comes down to the impact not wearing a helmet has on other people through insurance or lack thereof. Slide 13 tells us that 68 percent of the people driving mopeds that do not have insurance do not wear helmets. I do not see any raw data or percentages showing how many moped riders who find themselves in the trauma room do not have insurance.

Deborah Kuhls:

I do not have the information right here, but we do have the data and could provide it to you.

Laura Gryder, Project Director, Center for Traffic Safety Research, University of Nevada, Reno, School of Medicine:

I jotted down the raw numbers from 2012 to 2014 before we came over. For those not wearing helmets and not having insurance, there were 56 patients admitted to the trauma center. For those having insurance and not wearing helmets, there were 72. It might be more helpful for you if I pull that data, write it up, and send it to you.

Chairman Carrillo:

That would definitely help.

Assemblyman Watkins:

On slide 17, you talk about the total bill charges for moped-related accidents in Nevada trauma centers. You report it at \$11,937,414 for 2012 to 2014. Do we know the amount of bill charges for people who did not have insurance? For the bill charges for people who did not have insurance, were the hospitals able to come up with any other form of recovery of payments—retroactive insurance or some other method of payment other than having the burden fall on the taxpayers?

Laura Gryder:

I can get you that information, but I did not break it out here. I am not sure how hospitals and trauma centers recover costs from those who have no insurance.

Deborah Kuhls:

The data we get on hospital charges is completed and entered into trauma registries well after the fact. It includes if patients had supplemental insurance or if the insurance was not known at the time of admission. Sometimes we do not know for quite a long period of time who the injured patients are because they are unconscious. That information is filled in before they give us the data. What the data does not reflect is if someone was on a payment plan. For most people who need to go that route, the charges for a trauma patient are so significant that it is difficult to conceive they ever would be able to pay on a payment plan or for the hospital to recover those funds.

Assemblywoman Bilbray-Axelrod:

Thank you for the slides. They covered a lot. Slide 5 shows helmet laws in all 50 states. I notice there are about 15 with limited helmet laws. Would you address what those are? My next question is, how do you see this trending? Nationwide, are states becoming more stringent? I would imagine that when the fiscal impact hits states, you would see stricter regulations go into effect.

Deborah Kuhls:

One of the activities I participate in is injury prevention nationwide. I am chair of the committee on trauma, which is part of the American College of Surgeons. We are seeing an uptick in the number of bills that are proposed to have moped riders—whether passengers or drivers—wear helmets. Part of that resulted in what I will call "partial helmet" laws. I would say the national trend is to include moped riders in helmet laws. Historically, when we look at sources of data like what we presented here, moped riders were grouped in with motorcycle riders. Mopeds did not become popular until gas prices created a crisis. If you go back far enough, you cannot really separate them out.

Laura Gryder:

By limited helmet law, we mean that those states mostly use age restrictions—those 15 years or younger, or those 18 years or younger, or 21 years or younger. It varies state by state, so I did not break that information out. I pulled AAA data and can send you that, if you wish.

Assemblyman Ellison:

In the charts you have provided, you do not give a total number of people involved, other than the nine who were killed. A lot of these would be covered by the Indigent Accident Fund if they did not have insurance, would they not?

Chairman Carrillo:

What page are you referring to?

Assemblyman Ellison:

The Indigent Accident Fund allows money to be collected and given out to motorists who are uninsured. Right now, I am looking at slide 13. You have no helmets at 67.5 percent and yes helmets at 32.5 percent. You are talking about scooter and moped crashes, helmets versus no helmets. Where were the studies done, just in Clark County? Were these patients just in your hospital?

Deborah Kuhls:

The data is from all four trauma centers in Nevada. On the slides where the "N" number varies, that means the data was not available for every single patient. For 2012, 2013, and 2014, this data represents all patients who came to one of Nevada's trauma centers as a result of moped crashes. Typically, they would represent the more seriously injured patients. It does not include people who go to the emergency department and are released or those who go to a non-trauma center.

Assemblyman Ellison:

Have you done a study comparing bicycle to moped crashes—the number of accidents, head traumas, and how many strikes by cars?

Deborah Kuhls:

Yes, we have analyzed bicycle data. I do not recall the numbers. We can provide you with significant information. There seems to be a lot more emphasis on bicycle helmet use, largely targeting children. As a trauma surgeon, I see a lot of accidents on bicycles. Bicyclists are also vulnerable road users. A huge percentage does not have bicycle helmets. When I ask parents about their children, I am surprised by the number that does not even own a helmet. The parents had the resources to purchase the bicycle, but do not have a helmet in the house. We get a fair number of deaths of bicyclists. As you probably know, one of my coworkers was recently killed in a bicycle crash. He was a surgeon.

Assemblyman Ellison:

What I am trying to get at is the difference between the charts here and what is actually out there among the general public. I can understand that helmets could be useful for moped riders in cities with heavy traffic, but I am looking at the rest of the state and wondering if it is an issue. In looking at the moped crashes by age, I see a number of drivers over age 50. A lot of the older people want to get out and ride, but want to ride slow. They do not want to ride a heavy motorcycle because they would not be able to handle one, so they get a moped. They like mopeds because they do not have driver's licenses, and they do not have to wear helmets when riding one. My thought is the number of accidents with mopeds is actually

very low. You have a chart that shows the breakdown of race—I do not see that as significant. Slide 13 shows the percentages of non-helmeted injuries, by insured and uninsured. I am surprised there were that many people insuring their mopeds.

Deborah Kuhls:

If I could clarify, that slide is showing the percentage of those with medical insurance. I am sorry we did not make that clear on the slide. This does not reflect whether riders are insured as motorists, but whether or not they have medical insurance.

Assemblywoman Spiegel:

Do you know if any other states have established consumer education programs informing purchasers of mopeds or scooters of the dangers of not wearing a helmet? If so, what impact has that had on the accident or fatality rate?

Deborah Kuhls:

I could easily get that information from the American College of Surgeons Advocacy Team and provide it to you. I should put this into context since all of you are looking at the large picture—how significant is the percentage of crashes that this represents? We did not provide that data, but clearly could. These are 16 people who died in our trauma centers. We did not have time to pull out total deaths in Nevada. We have data from the Department of Transportation (NDOT), but have not extracted the total number of deaths. There are a number of riders who are pronounced dead at the scene. This is a rapidly growing problem. We are seeing the numbers increase.

If it would be helpful, we could also separate the statistics for northern Nevada trauma centers from southern Nevada trauma centers. The northern numbers would represent less urban areas. Even though the numbers may be small in rural areas, we look at every life lost as being very significant.

Chairman Carrillo:

I know that you deal just with statistics from trauma centers, so you may not have this information. Many of the crashes are a result of moped riders making errors in judgment. On slide 3, you refer to a moped overturned on a sidewalk. Obviously, the rider lost control, which could have been an error made by the moped rider. The next one shows a rider who ran a red light and was hit by a car. The third one shows the driver hit some fluid on the road, causing him to lose control of the moped. Last session, we passed legislation requiring registration of mopeds. I have seen a lot more people wearing helmets while riding mopeds.

I think part of that is due to the fact that the mopeds have been modified and far exceed their defined limits. They are not designed to exceed 30 miles per hour. If they are modified to go faster, they should be classified as motorcycles and riders would be required to wear helmets and insure them. Do you track if speeding was a factor in a moped crash?

Deborah Kuhls:

We do have speed data and can get that for you.

Laura Gryder:

I looked at that with this analysis. Almost every single one of these crashes took place well below the posted speed limit. There were only maybe three cases in which the rider was exceeding the speed limit.

**Erin Breen, Director, Vulnerable Road Users Project, Transportation Research Center,
University of Nevada, Las Vegas:**

That could be because we have very few streets with speed limits of 30 miles per hour.

Deborah Kuhls:

I look at things in which you can be completely correct and right, but still be dead. We get a lot of patients like that. It may be that someone else runs the red light, or someone else hits you. You might be going slowly, but if you are unprotected and hit by someone going faster, there is still a tremendous amount of force. It is hard to have all of that data.

The other piece of data that is not always filled in is impairment. Anecdotally, we feel that is an issue with moped and bicycle riders and with people who do not have driver's licenses. Nonetheless, we have many people who are not impaired who sustain serious injury and death.

Chairman Carrillo:

Are there any questions from Committee members? [There were none.] We will now take testimony in support of Senate Bill 426 in southern Nevada.

Erin Breen:

We are going a little backwards today. I told Senator Manendo that I would walk you through this brief bill, but there is not much to it. I made notes regarding your questions and will go through those after the walk-through.

Through Nevada's Strategic Highway Safety Plan, the request was made to introduce S.B. 426 to add to the all-rider motorcycle helmet law that is currently in effect in the state. When we compared Nevada motorcycle crashes to other places in the country that no longer have motorcycle helmet laws, we could see that our fatalities are far lower. We attribute that to our motorcycle helmet laws. That is one of the reasons we requested that this bill be brought forward. The other one was the tremendous increase in the number of people riding

mopeds and scooters losing their lives, especially in Clark County. The situation in Clark County is different than it is in the north. We have a lot of urban roads, very few of which are designed for 30 mph driving speed. Probably none except for neighborhood streets are designed for that speed; very few roads have a posted 30 mph speed limit.

Section 1, subsection 1 of S.B. 426 removes moped exemptions from our current motorcycle helmet law. Subsection 2 removes the trimobile protective goggles exemption. I was on a street in Clark County that has a posted speed limit of over 50 mph. A trimobile blew past me like I was on a scooter. Trimobiles go very fast, and they are allowed to do that without the riders wearing helmets. Their crash potential is exponentially greater than that of a scooter operator.

Section 1, subsection 3 of this bill says that, when there is a windscreen on a scooter or the trimobile, the requirement to wear goggles that is part of the motorcycle helmet law is not in effect. There is also some enabling language. That is basically the entire bill.

Dr. Kuhls has already spoken to some of the things I would like to address. There are a large number of scooter riders who do not ever make it to the trauma center. It is similar to the outcome for pedestrians. If we look at the trauma numbers for pedestrians, our problem does not look nearly as large as it is because there are so many who never make it to the trauma centers—they are declared dead at the scene. We see a lot of that with scooter riders as well.

You have to realize that a scooter rider has even a lower profile than a bicyclist; a bicycle sits much higher than a scooter. When you have someone on a scooter, the rider is out of the field of vision of the average driver. The driver has to be looking for a scooter, especially at the speeds at which we travel throughout Nevada, as fast roads are not just a problem in Clark County. Your field of vision narrows the faster you go, so it is leaving out those people who are below your windshield. As a result, we are seeing more scooter riders hit from behind and run over.

You could argue that a helmet will not always save a rider's life, and you might be completely right. The other thing we are seeing with bicyclists, motorcyclists, and scooter riders is an increase in the number of left-hand turns being made by drivers in front of these operators. The drivers are simply not seeing them. They take the left turn in front of them, leaving no time for the cyclists and scooter riders to do anything but hit the side of the vehicle or go under the tires of the car. When scooter riders, bicyclists, or motorcyclists hit the side of a car at 30 miles per hour, they will go directly over the handlebars of whatever they are driving. Very often, they will land on their heads. That is why to me, as a safety advocate, putting helmets on scooter riders is so important.

I also want to briefly address that we do not have emergency room data, so you are not seeing the broken legs or broken arms—we do not have a way to capture that data. That is another story that needs to be addressed in Nevada.

I would like to add that there has been a lot of discussion about whether a driver's license is required for a scooter or moped. I will leave that to law enforcement because, depending on which officer you ask, you will get a different answer. Very often, people who have had their driver's licenses revoked or are unable to obtain driver's licenses are operating scooters because they think they are allowed to. We have a higher incidence of scooter operators who might be more dangerous drivers to start with—perhaps impaired drivers who have lost their licenses. Without the benefit of air bags, seat belts, or helmets, they are that much more vulnerable.

Assemblywoman Spiegel:

If this bill is passed into law, do you know what the plans are for notifying the public that scooter riders need to wear helmets? Do you know if there are any consumer education programs that have already been tried and what the impact of those has been on accident rates?

Erin Breen:

I am glad you asked that question again. Several years ago, I was part of a group that did an education campaign with motorcycle stores in Clark County to put out education with every two-wheeled device they sold, because we were trying to get people to understand how critical a helmet is. We did not see a decrease in the number of drivers killed. It would be more difficult to educate these drivers except to do it through the places where they buy the bikes. Right now, a scooter rider only has to go into the Department of Motor Vehicles (DMV) once to pay the one-time registration fee. We would certainly put something together to make sure that when they are at the DMV that one time they are given information. It would be a more difficult group to educate. I cannot commit for NDOT or the Office of Traffic Safety, but I would hope they would also include education through Nevada Rider and the Zero Fatalities campaigns.

Deborah Kuhls:

As part of the American College of Surgeons' injury prevention committee's work, we are trying to be evidence-based in our injury prevention interventions. We are finding that it does not matter if it is a motorcycle, motor crash, or a gun—education is one part. It is hard to show statistically significant results through education alone. You would think you could show results, but it does not always have that impact. If you couple education with giving away a device, you can reach statistical significance. We in southern Nevada and our colleagues in northern Nevada are very passionate about injury prevention. We would do everything in our power to apply for grants that would allow us to help moped users have better access to protective helmets. If this bill passes, we will do our very best to make a difference.

Chairman Carrillo:

Are there any other questions from Committee members? [There were none.] We will now take testimony in opposition to S.B. 426.

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:

While we understand that this bill simply closes a loophole in existing law, the Libertarian Party of Nevada would like to lodge a symbolic opposition against the broader paternalism of helmet laws. I personally would never ride a moped helmetless, or likely at all. But it is the rider's head at risk, not mine. We do recognize that helmet laws consistently result in a reduction of traffic fatalities and a reduction of costs to the taxpayer. I would personally strongly encourage all riders of two- and three-wheeled vehicles to wear helmets. In an ideal world, individuals would be responsible enough to choose for themselves to wear a helmet.

The core question is, "Does the government have the right to control the person's bodily autonomy while he or she participates in a particular activity?" If the government can mandate that you wear a helmet, what other healthy or safe behavior can be mandated by statute? Healthy eating according to the U.S. Department of Agriculture's dietary guidelines? Regular exercise regimens planned by the Centers for Disease Control and Prevention? In the face of the obesity epidemic, how many lives could be saved by forcing all Nevadans to live healthy lifestyles? I personally encourage all individuals to partake in both exercise and healthy eating, but could never endorse a government mandate forcing others to do so. Moreover, mandating helmet use does not mean that riders would actually wear them to avoid injury. It simply means they would be fined if they were caught not wearing helmets.

As helmet laws already exist in Nevada, the de facto answer is, "Yes. You can and will make these paternalistic laws." But in principle, we do not have to like it. We deeply regret the loss of any lives as a result of individuals choosing to engage in risky moped-related behaviors, but those are ultimately their risks to take.

Assemblywoman Bilbray-Axelrod:

Does your organization feel the same way about seat belt laws?

Wendy Stolyarov:

I believe that seat belts are a little bit different, as people are sometimes ejected from their cars. We would oppose not using a seat belt as something you could be pulled over for.

Chairman Carrillo:

Is there neutral testimony?

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

As I looked at this bill, I went back to 1975 when the definition for moped was created. A moped was defined as a motor-driven cycle with pedals. A lot has changed since then—roads are more congested and surface road speeds are much higher. In that hearing in 1975,

there was discussion about moped riders wearing helmets. Back then, testimony indicated there was less chance of someone getting in a crash on a moped than on a bicycle.

For the sake of time, I will only make a couple of points since so much else has already been covered. Our partner, National Highway Traffic Safety Administration (NHTSA), says that if you are ever in a serious motorcycle crash the best hope you have for protecting your brain is a motorcycle helmet. When we invited the NHTSA team to Nevada in 2011, they conducted a technical assessment of our state's motorcycle safety efforts, which included mopeds. Their recommendation to Nevada was to require moped and trimobile operators and passengers to wear United States Department of Transportation (USDOT)-compliant helmets.

The only other thing I will bring up is that every year the Office of Traffic Safety conducts an attitudinal survey. In 2014, we asked the public what they thought about moped riders wearing helmets. Seventy-six percent of the respondents favored or strongly favored a law requiring moped riders to wear helmets. The public is definitely behind this initiative.

Assemblyman Ellison:

Looking at the safety of mopeds, bicycles, and powered skateboards—moped riders at least have a shield around them that protects their legs where a bicycle does not. Mopeds also have headlights, blinkers front and back for turn signals, and emergency lights, while bicycles do not. I would like to see the actual number of wrecks of bicycles compared to mopeds and pedestrians in crosswalks. Lately, we are seeing more people killed in crosswalks or walking down the road than on bicycles. I am not discouraging anyone from wearing a helmet. I think not all of these vehicles are ridden on freeways or in heavy-traffic areas; in many cases they are ridden on streets, by people who cannot get driver's licenses, for going to the store. I would like to see actual numbers in order to make a good, honest decision.

Pete Vander Aa:

I am not sure if all of that information is available, but I will try to get it. I think Erin Breen also mentioned that a lot of times, riders are ejected. If a moped or a motorcycle hits something—another vehicle or something on the road—the rider will be ejected.

Deborah Kuhls:

We can try to get trauma center data for those three categories if that would be helpful.

Chairman Carrillo:

That would be great. Please send it to the members of our Committee. Is there neutral testimony in southern Nevada? [There was none.] We will close the hearing on S.B. 426. Is there any public comment in Carson City or Las Vegas? [There was none.] This meeting is adjourned [at 4:57 p.m.].

RESPECTFULLY SUBMITTED:

Joan Waldock
Committee Secretary

APPROVED BY:

Assemblyman Richard Carrillo, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "[S.B. 426](#) Scooter and Moped Crashes in Nevada: The Impact of Helmet Use," dated April 27, 2017, co-authored by Deborah A. Kuhls, M.D., University Medical Center, Las Vegas, Nevada; and President, Nevada Chapter American College of Surgeons; and Laura Gryder, Project Director, Center for Traffic Safety Research, University of Nevada, Reno School of Medicine.