

**MINUTES OF THE
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eightieth Session
March 5, 2019**

The Senate Committee on Growth and Infrastructure was called to order by Chair Yvanna D. Cancela at 2:33 p.m. on Tuesday, March 5, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Yvanna D. Cancela, Chair
Senator Chris Brooks, Vice Chair
Senator Moises Denis
Senator Pat Spearman
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Scott Hammond

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Policy Analyst
Darcy Johnson, Committee Counsel
Debbie Shope, Committee Secretary

OTHERS PRESENT:

Tyson K. Falk, Nevada State Apartment Association
Michael Baumbach, Milne Towing Services
Drew Ribar, A&A Towing, Inc
Garrett Gordon, CAI Nevada
Mark Leon, Mountain's Edge Master Association

CHAIR CANCELA:

We will open the hearing on Senate Bill (S.B.) 212.

SENATE BILL 212: Revises provisions relating to the notice required before towing a motor vehicle from a residential complex. (BDR 58-373)

SENATOR MOISES DENIS (Senatorial District No. 2):

In *Nevada Revised Statutes* (NRS) 706.131, tow trucks are referred to as tow cars. Tow cars in Nevada are primarily regulated by the Nevada Transportation Authority (NTA) with relevant provisions located in NRS 706. Pursuant to federal law, towing services are divided into two categories.

The first is consensual towing services, where a tow car tows a motor vehicle at the request of an owner or the owner's insurance company. This type of tow occurs when the motor vehicle is broken down on the side of a road or gets into an accident and the owner calls a tow truck. The NTA has limited jurisdiction over that type of tow.

The second type of towing is nonconsensual towing. This is when someone other than the owner of the motor vehicle requests the tow. This type of tow happens when a motor vehicle is illegally parked or abandoned. The operator of a tow car who provides this kind of tow service must obtain from the NTA a certificate of convenience and necessity, which is a license that allows nonconsensual tows. The rules and regulations in existing law for these nonconsensual tows are the subject of this bill.

I sponsored S.B. No. 320 of the 79th Session, which was passed by the Legislature and signed by the Governor. The measure set forth conditions relating to a nonconsensual tow of a motor vehicle from a residential complex.

The conditions require that the owner of the real property, or an authorized agent of the owner, have a motor vehicle towed for a parking violation for an issue related to the health, safety or welfare of the residents of the complex because the motor vehicle is unregistered or the registration of the motor vehicle is expired. The motor vehicle may not be towed until 48 hours after affixing a notice which explains when the motor vehicle is to be towed.

I brought the bill last Session because I had a constituent who was older and lived in an apartment complex. He had gone to the store to purchase groceries. He returned to the apartment complex and parked his motor vehicle backward in his assigned space to move his groceries to his apartment. He went into the apartment and fell asleep. A few hours later, he awoke and went out to the

parking lot and his motor vehicle had been towed. There was a rule in the apartment complex that you cannot park your motor vehicle backward in your assigned space.

The second incident was a constituent who had a motor vehicle and the registration renewal date was coming due. They had sent away for the decal, but it had not yet been received. It appeared that the motor vehicle was not registered, even though it was registered at the time it was towed.

With the first issue, the bill needs to state the motor vehicle cannot be towed for 48 hours. The second issue with the expired registration, there will be a waiting period of 60 days to tow because the registration expiration date could roll over from one month to the next. We were able to fix those issues.

The unintended consequence involved students at the University of Nevada, Reno (UNR). Students happened to be across the street from apartment complexes. They realized they could park their motor vehicle in the apartment complex and it could not be towed for 48 hours. The intent of the bill was not to allow people to get free parking across the street from UNR or other similar places. In the Interim, the NTA created some rules and regulations to deal with the problem and fix that issue.

I am presenting S.B. 212 as a continuation of conditions involving the nonconsensual tow of a motor vehicle from a residential complex. If the tow company has entered into an agreement with the owner of the property to remove motor vehicles, the tow operator is allowed to affix a notice for this purpose.

During the Interim, the tow companies interpreted the way the bill was written to not allow them to affix a sticker on the motor vehicle. Either the manager or someone who the manager authorized was allowed to affix the notice, but not the tow car. This will fix that issue. If you are a tow car operator and you have an arrangement with the apartment complex, you can affix the notice to the motor vehicle.

Section 1 of the bill provides some exceptions to the requirement to provide notice and allows the motor vehicle to be towed immediately when a notice was previously affixed to the motor vehicle.

In the bill, section 1, subsection 2, paragraph (a), subparagraph (2), sub-subparagraph (I), states for the same or similar reasons within the residential complex; and sub-subparagraph (II), three or more times during the immediately preceding six months within the same residential complex for any reason, regardless of whether the motor vehicle was subsequently towed. It means if you park your motor vehicle and receive a notice, then you move it and park it backward in the space, that would be two subsequent parking violations and it can be towed.

If you park in front of a fire hydrant, the motor vehicle can be towed without notice because it is a safety issue. If you park your motor vehicle in front of apartment number two, but your space is number three, that is a violation. If you have three of these types of violations in a six month period, the motor vehicle can be towed immediately because this shows a pattern. It will correct the issue of a student at UNR who parks one day in a space and the next day moves the vehicle to a different space.

This bill adds to the provision referring to a motor vehicle parked in a space that is clearly marked for a specific resident or for the use of a specific unit in the residential complex. For instance, if it is clearly marked for the manager, then it can be towed immediately.

TYSON K. FALK (Nevada State Apartment Association):

The goal of S.B. No. 320 of the 79th Session was to address incidents of predatory towing. It was to give residents a reasonable time frame to cure violations before being towed. We were supportive of those efforts and still remain supportive today. We are trying to address the unintended consequences.

I would like to note a couple of different issues about a motor vehicle being towed if it is parked in a space for a specific resident. From the apartment complex perspective, there is some liability about fair housing. When someone is disabled, they are assigned a particular space for a reason. If the disabled person is forced to walk further, it might exacerbate their condition or expose them to potential harm. A lot of the time those people are paying an extra premium for a specific space. It is not fair to those residents.

The part about allowing the tow operators to affix the notice for the tow is important. Managers are not always trained properly to differentiate if a motor

vehicle has been abandoned or if it has normal oil or water leakage. They do not know how to chalk tires. The tow operators are trained for these determinations. If you delegate that authority to the apartment complex, there is the possibility of adding extra staff, providing more training and additional cost to an already expensive rental market.

The UNR example is important. Someone can park improperly in a space they are not authorized to use. That person is not a resident of the complex, and they are using the space to go to a Wolf Pack game or go to school. They receive a notice. They move the motor vehicle and it is not towed. They are then able to repeat that in perpetuity, and that was not intent of the bill last Session. We are here to fix and support the changes.

SENATOR SETTELMAYER:

Does this only affect those within community complexes? A 48-hour notice is not given if they are trying to tow someone's motor vehicle because the owner gave up the title to the motor vehicle for a loan, for bail bonds, collateral or even for rent? This has nothing to do with any of those situations; is that correct?

SENATOR DENIS:

No, this was intended for the residential apartment complexes. It does not have anything to do with trying to tow a motor vehicle because of a title loan or another type of collateral.

If the person happens to be parked in an apartment complex and in front of a fire hydrant, then they could get towed. That part does not change. They have to be in a residential complex.

SENATOR SPEARMAN:

Is there anything in statute whether it is at the State, county or city level that states a certain number of parking spaces must be maintained for each unit of an apartment complex? If there is a complex that does not have enough spaces, and someone has to park somewhere other than on that property, would they then be liable for towing?

MR. FALK:

I do not know offhand if there is anything in statute that requires a complex to have a space for every resident.

SENATOR SPEARMAN:

Shopping centers and churches have to maintain a certain number of parking spaces. If someone is in their complex and all the spaces are taken, then that person would have to figure out where they will park besides the complex?

SENATOR DENIS:

That was not something we considered in the bill last Session. Senate Bill 212 does not deal with that issue. All other towing laws still apply, such as parking off property for example.

In my district, there are a lot of lower income individuals. Sometimes they are older and will make a mistake when they park. When their motor vehicle gets towed, they not only are out their vehicle, they either do not have a job anymore because they cannot get to work or they cannot get to the doctor if they have an appointment. It will cost them \$300 to retrieve their vehicle because it was impounded. That is what we are trying to correct with this bill, because they were not being given enough time to correct their mistakes.

The towing was arbitrary. Tow operators would go into the complexes looking for unregistered vehicles or vehicles that were parked differently than what the rules allowed. They would tow the motor vehicle without giving the owner a chance to correct the situation.

MICHAEL BAUMBACH (Milne Towing Services):

I reside in Sparks and work in the Washoe County area. I am a part of the Tow Operators of Northern Nevada (TONN) association. I support this bill. I believe it corrects the unintended problems that were caused for apartment complexes. One of the things that Tyson Falk spoke about was residents paying an additional amount of money to get a marked parking space and specified in the lease that was closer to an entrance or easily accessible. The person needed the parking space. That is why the space was clearly marked. That property is obligated to provide the parking space to that resident.

Unfortunately, when S.B. No. 320 of the 79th Session was written, that obligation could not be met by the private property owner, which brings up legal liability to the apartment complex. This change helps prevent that liability and provides the necessary relief to the property owner and allow the tow to occur within reason.

DREW RIBAR (A&A Towing, Inc.):

I am the only owner who operates a tow company both in the north and the south. I have operations in Reno, Carson City and Las Vegas. I am also the President of TONN. This issue has affected all areas of the State. The bill is a good fix. It walks a fairly narrow line of how to protect both property owners and the owners of the vehicles that are being parked or towed.

I believe in giving a fair warning to people who park in the wrong space. On the opposite side, it protects people like me who are landowners, or investors who have rental properties, from being taken advantage of and having our properties littered with motor vehicles. We are in support of this bill and believe it solves some of the problems that exist.

GARRETT GORDON (CAI Nevada):

We support this bill and appreciate Senator Denis making these clarifications.

MARK LEON (Mountain's Edge Master Association):

I am a board member of Mountain's Edge Master Association in Las Vegas, which is an association of 11,866 single family residences. I am in favor of the bill if it is as Senator Denis read, NRS 706.4477 subsection 2, paragraph (a), subparagraph (2), sub-subparagraphs (I) or (II) for the same or similar reason for the resident of a complex. If there is actually an "or" in the language I think it makes it much clearer. The version I am looking at does not have an "or." What I am worried about is a homeowner reading this as a lay person and thinking that they only received a single 48-hour notice and should actually get 3 notices before being towed. I am hoping for clarity.

SENATOR DENIS:

After discussion with the legal staff, the way the bill is written does provide the "or."

DARCY JOHNSON (Committee Counsel):

The way this is written, the person's motor vehicle can be towed without notice for either NRS 706.4477, subsection 2, paragraph (a), subparagraph (2), sub-subparagraphs (I) or (II). There is the possibility both could happen at the same time.

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SENATOR DENIS:

I think this addresses the issues that needed to be corrected and hope that you will support the bill.

CHAIR CANCELA:

We will close the hearing on S.B. 212. We will open the work session on S.B. 42.

SENATE BILL 42: Repeals provisions requiring certain fleets of motor vehicles to use alternative fuels, clean vehicles or vehicles that use alternative fuels. (BDR 43-361)

CHAIR CANCELA:

Senate Bill 42 was heard on February 7 and was brought forward by the Nevada Division of Environmental Protection. The bill deals with motor fleets in counties where populations are over 100,000. There were no amendments to the bill. The work session document is ([Exhibit C](#)).

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 42.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR HARDY:

Since there is no opposition to S.B. 212, do we want to add that bill to our work session?

Ms. JOHNSON:

I need to bring to the Committee's attention, what may be a drafting error, which might lead to an unintended consequence. Section 1, subsection 1, paragraph (a) is where I would like to propose a friendly amendment. In the second sentence, which currently begins with "For the purposes of," we would put in "except as otherwise provided." It would read "Except as otherwise provided in subsection (2), the tow operator cannot be an agent of the property owner."

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SENATOR HARDY MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 212.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

There being no further business, the meeting is adjourned at 2:59 p.m.

RESPECTFULLY SUBMITTED:

Debbie Shope,
Committee Secretary

APPROVED BY:

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 42	C	2	Senator Yvanna D. Cancela	Work Session Document