

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Eighty-first Session
April 22, 2021**

The Senate Committee on Natural Resources was called to order by Chair Fabian Donate at 3:32 p.m. on Thursday, April 22, 2021, Online and in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Fabian Donate, Chair
Senator Melanie Scheible, Vice Chair
Senator Chris Brooks
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Allan Amburn, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Cadence Matijevich, Administrator, Division of Consumer Equitability, State Department of Agriculture
Paul Enos, CEO, Nevada Trucking Association
Peter Krueger, Nevada Petroleum Marketers & Convenience Store Association
John Neese, Administrator, Motor Carrier Division, Department of Motor Vehicles
Ashley Jeppson, Administrator, Division of Plant Industry, State Department of Agriculture

CHAIR DONATE:

We will open the hearing on Assembly Bill (A.B.) 31:

ASSEMBLY BILL 31 (1st Reprint): Revises provisions governing the Nevada Petroleum Products Inspection Act. (BDR 51-276)

Senate Committee on Natural Resources
April 22, 2021
Page 2

CADENCE MATIJEVICH (Administrator, Division of Consumer Equitability, State Department of Agriculture):

I will read from my written testimony ([Exhibit B](#)) identifying the changes in *Nevada Revised Statutes* (NRS) 590 outlined in A.B. 31.

SENATOR GOICOECHEA:

Can you explain what the reference to pure water is in section 3, subsection 11 of A.B. 31?

MS. MATIJEVICH:

Page 5, line 21 in the definition for diesel exhaust fluid (DEF) references pure water. To establish the definitions and criteria for DEFs, the definition for pure water is added.

PAUL ENOS (CEO, Nevada Trucking Association):

The Nevada Trucking Association supports A.B. 31. Since 2010, diesel engines are required to use DEFs. When emissions are released by the engine, the hot gases mix with DEFs, and through a selected catalytic reduction process, nitrogen and water are created before exiting the tailpipe or stack. It is important DEFs are monitored correctly to avoid engine shutdown.

PETER KRUEGER (Nevada Petroleum Marketers & Convenience Store Association):

The Nevada Petroleum Marketers & Convenience Store Association is a Statewide trade group representing petroleum wholesalers, retailers and convenience store owners. The Association favors A.B. 31 with its submitted proposed amendment ([Exhibit C](#)).

For more than 50 years, the petroleum inspection fee has been levied at .055 of a cent per gallon or 55 mills against gasoline and lubricating oils transported into the State. Diesel fuel has never been part of the inspection fee.

Marketing of lubricating oils has changed in the past 50 years. Lubricating oils for vehicles were being sold to petroleum jobbers and retailers. Today, a vast quantity of automotive lubricating oils are sold by big box retailers, auto parts stores, grocery stores and other retailers.

The Department of Motor Vehicles (DMV) has never imposed the fee on the lubricating oils market. The fee is levied against petroleum wholesalers licensed

by DMV to pay other taxes on gasoline, diesel fuel and so on. The hundreds of other retail outlets selling lubricating oils are not included in tax assessments.

The proposed amendment, [Exhibit C](#), removes the inspection fee from lubricating oils freeing the unenforceable provision in law. It adds diesel fuel to the inspection fee process. The proposed amendment strikes a fair balance between enforcement of NRS 590 and the need for revenue to maintain the inspection functions of the State Department of Agriculture's petroleum labs in Las Vegas and Sparks.

About three months ago in northern Nevada, wholesale and retail marketers of diesel fuel experienced high rates of failure of their diesel fuel filters. A substance was discovered in the diesel fuel filters creating clogs. The filters are the last line of defense before diesel fuel goes into a vehicle. This illustrates the need for diesel fuel to be part of the inspection process.

The proposed amendment is less about the fee collection mechanism and more about fairness. Petroleum marketers are paying an annual fee of \$750,000. The fees for lubricating oils is \$3,700.

SENATOR GOICOECHEA:

Are you proposing DEFs sold at retail establishments be exempt?

MR. KRUEGER:

If the Committee is favorable to the proposed amendment, DEFs will be exempt. The collection agency, DMV, will find it difficult to collect fees on retail sales of DEFs, the same as quarts of motor oil.

CHAIR DONATE:

Why was the amendment not brought forward when the bill was heard by the Nevada State Assembly?

MR. KRUEGER:

It was hoped the matter could be worked out without legislation; it is a stalemate. For DMV to take the time and effort needed to go after retailers does not make sense. The fee is needed. Replacing the fees for lubricating oils and DEFs with diesel fuel fees is the path forward.

SENATOR HANSEN:

Where did the additional \$500,000 figure in fees come from, and how would the fees be applied over the current \$700,000 budget?

MR. KRUEGER:

The figures were provided by the DMV. The State Department of Agriculture receives the funds from inspection fees collected by DMV. The process is important for maintaining fuel standards. The plugged diesel fuel filters is an example of this need.

SENATOR HANSEN:

What is the intent for using the additional \$500,000 in fees?

MS. MATIJEVICH:

In fiscal year 2020, the State Department of Agriculture received \$732,000 in fee collections. One percent commission is paid to DMV for collecting and administering the fee process. *Nevada Revised Statutes* 561.412 specifies the fees received must be used to carry out the provisions of NRS 581, 582, and 590.010 through 590.330 for the duties of the Division of Consumer Equitability. The Department considers the proposed amendment to be friendly. Fees are only collected on gasoline. The wholesalers of gasoline pay for the services provided by a multitude of other products.

Additional revenue is estimated to be \$400,000 to \$500,000 and will be applied to ongoing work of the Division. Capital replacement of instruments and other equipment are needed. If the proposed amendment, [Exhibit C](#), is received favorably and passes through the legislative process, the effective date of that portion should be later than the effective date of the other portions of [A.B. 31](#).

The DMV will require programming adjustments to its software system. The funds would be put into the reserves of the Division of Consumer Equitability in the biennium to seek Legislative approval on spending the funds, or the funds will be programmed into the budget for the following biennium for Legislative budget approval.

SENATOR HANSEN:

Increasing the resources pool could decrease costs for payers. The gasoline industry is paying the fees; if expansion of fees collected include the diesel industry, it would seem the rate per gallon could be reduced. Expanding the

dollars is not based on needed demand. Spreading the rate over various consumers of fuels could average out the amount of the assessment.

SENATOR BROOKS:

Has DMV indicated the costs for reprogramming their processes for collection?

MR. KRUEGER:

Reprogramming the processes for collection will create an expense. A fiscal note by DMV will be offered.

SENATOR GOICOECHEA:

Are heating oil and red-dyed diesel part of the tax?

MR. KRUEGER:

Red-dyed diesel is a tax-exempt off-road product used in agriculture. Vehicles not used on the highway system are exempt from road taxes. Heating oil is a very small market and used primarily in northern Nevada. There is no product defined as heating oil; it is considered to be diesel fuel of grade No. 2. It is a declining source of heat, and the tax is minimal.

JOHN NEESE (Administrator, Motor Carrier Division, Department of Motor Vehicles):

The Department of Motor Vehicles is neutral on the proposed amendment to A.B. 31. Programming changes will be required to motor carrier fuel tax reporting software used in fuel tax collection and distribution. The DMV is assessing the impact and will provide a fiscal note when the information is available.

In fiscal year 2020, gross collections of inspection fees for all products were \$731,953. The lubricating oils portion totaled 6,855,978 gallons, equating to \$3,771 in collections per year. The amendment will eliminate the fee for lubricating oils.

Nevada imports 903,994,903 gallons of diesel fuel. Adding the 55 mill fee to these imports will provide additional fees of \$497,197 per year. It does not seem the impact on reprogramming the software will be huge. A fiscal note will be forthcoming.

CHAIR DONATE:

We will close the hearing on A.B. 31 and open the hearing on A.B. 34.

ASSEMBLY BILL 34 (1st Reprint): Revises provisions governing the control of pests, noxious weeds and pesticides. (BDR 49-272)

ASHLEY JEPSON (Administrator, Division of Plant Industry, State Department of Agriculture):

Chapter 555 of NRS encompasses the noxious weeds enforcement program and the nursery registration and enforcement program. The bulk of the bill involves changes pertaining to the pesticide applicator compliance and enforcement program and aligning it with federal code regulations.

Sections 1 through 4 of A.B. 34 pertain to updating definitions to the pesticide and noxious weeds programs. Section 5 includes one minor change to the nursery program allowing marketing and sales be included through online sales, not just catalogue sales in order to align with current marketplace conditions. Sections 6 through 26 pertain to the pesticide applicator compliance and enforcement program and aligning with federal code regulations.

Sections 1 through 4 define the control of noxious weeds to ensure the measure of control is specific to the species. Weeds spread through different means, and defining propagative parts allows for better handling in compliance situations and ensures actions be taken with specific species. Expectations for the noxious weeds program become clear and transparent.

Section 2 includes the North American Invasive Species Management Association standards for Nevada's Noxious Weed Free Certification Program. The Program allows producers to certify forage or gravel materials as Noxious Weed Free. Certification is a voluntary service for businesses which helps with weed mitigation in Nevada.

The bulk of the changes in NRS 555 are included in sections 6 through 26 concerning the pesticide applicator compliance and enforcement program. Changes in federal requirements pertain to competency standards. The changes are specific to the restricted-use pesticides. Restricted-use pesticides are considered high risk for public and environmental health concerns, and specific competency standards are required.

While updating the language to meet federal requirements, the bill language has been clarified and redefined to allow for ease of navigation for regulations, certification and licensure. This ensures testing implementation is appropriate to the pesticides an entity is applying for.

The bill redefines private and nonprivate applicators and authorizes commercial licensure with specific criteria for restricted-use pesticides. The bill was amended to clarify language that could have created additional and stricter testing for people engaged in for hire of general use pesticides.

SENATOR GOICOECHEA:

Will the additional requirements for application change for a certified farmer or rancher? Will they be allowed to apply pesticides or herbicides on their properties?

MS. JEPPSON:

No additional requirements will be imposed on someone applying general-use pesticides. The additional standards apply to restricted-use high-risk pesticides. A rancher applying restrictive-use pesticides needs to meet federal requirements and secure appropriate licensing.

CHAIR DONATE:

We will close the hearing on A.B. 34 and open the hearing on S.B. 74.

ASSEMBLY BILL 74: Revises provisions relating to pesticides. (BDR 51-265)

ASHLEY JEPPSON (Administrator, Division of Plant Industry, State Department of Agriculture):

The purpose of A.B. 74 is to bring the bill language to the standards of the federal regulation codes. It requires those selling restricted-use pesticides to record the sale and distribution of the pesticides. This only pertains to the end user of restricted-use pesticides.

CHAIR DONATE:

Hearing no further testimony, we will close the hearing on A.B. 74 and open the hearing on A.B. 75.

ASSEMBLY BILL 75 (1st Reprint): Revises provisions relating to weights and measures. (BDR 51-273)

Senate Committee on Natural Resources
April 22, 2021
Page 8

CADENCE MATIJEVICH (Administrator, Division of Consumer Equitability, State Department of Agriculture):

I will read from my written testimony ([Exhibit D](#)) identifying the changes in NRS 581 outlined in A.B. 75 governing weights and measures.

SENATOR GOICOECHEA:

What is meant by transfer standards? Is it when a forklift transfers cement blocks on and off the scale?

MS. MATIJEVICH:

You are referring to field reference standards which include volume proving devices or weights of all sizes. The Department inspectors commonly use field reference standards to confirm accuracy of devices and are used by registered service agents who install, repair or adjust devices.

Transfer standards are temporary measurement references to check the accuracy of commercial weighing and measuring equipment.

CHAIR DONATE:

Hearing no further testimony, we will close the hearing on A.B. 75.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Natural Resources
April 22, 2021
Page 9

CHAIR DONATE:

There being no further business, we will adjourn this meeting at 4:29 p.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Fabian Donate, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 31	B	1	Cadence Matijevich / Division of Consumer Equitability / State Department of Agriculture	Written Testimony
A.B. 31	C	1	Peter Krueger / Nevada Petroleum Marketers & Convenience Store Association	Proposed Amendment
A.B. 75	D	1	Cadence Matijevich / Division of Consumer Equitability / State Department of Agriculture	Written Testimony