

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Eighty-second Session  
March 2, 2023**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 1:04 p.m. on Thursday, March 2, 2023, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Dina Neal, Chair  
Senator Fabian Doñate, Vice Chair  
Senator Pat Spearman  
Senator Heidi Seevers Gansert  
Senator Carrie A. Buck

**GUEST LEGISLATORS PRESENT:**

Senator Ira Hansen, Senatorial District No. 14

**STAFF MEMBERS PRESENT:**

Michael Nakamoto, Chief Principal Deputy Fiscal Analyst  
Christian Thauer, Deputy Fiscal Analyst  
Janet Stokes, Committee Secretary

**OTHERS PRESENT:**

Terry J. Reynolds, Director, Nevada Department of Business and Industry  
Todd Park, Chief of Enforcement, Nevada Transportation Authority, Nevada  
Department of Business and Industry  
Dawn Gibbons, Chair/Commissioner, Nevada Transportation Authority, Nevada  
Department of Business and Industry  
Matthew L. Sharp, Nevada Justice Association  
Michael Hillerby, Lyft, Inc.  
A.J. Delap, Uber Technologies, Inc.

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Harry Hartfield, Uber Western States  
Morgan Roth, Motional  
Jesse Wadhams, Vegas Chamber; Nevada Insurance Council  
Jerry Allen, Pershing County Sheriff  
Larry Rackley, Vice Chairman, Pershing County Board of Commissioners

CHAIR NEAL:

We will have a presentation from the Nevada Transportation Authority under the Nevada Department of Business and Industry.

TERRY J. REYNOLDS (Director, Nevada Department of Business and Industry):

Our presentation ([Exhibit C](#)) is an overview of the Nevada Transportation Authority (NTA). Most everyone here is familiar with transportation issues in the State, especially in Clark County. On Slide 2, we have the Taxicab Authority that oversees only taxis within Clark County. The NTA oversees everything else—charter buses; limousines; household goods movers (HHG); tow cars; scenic tours; nonemergency medical transfers; employer vanpools, which are contracted out; airport transfer services; special services; warehouse permits; transportation network companies (TNC); and autonomous vehicles Statewide—as well as taxicabs outside of Clark County.

The *Nevada Revised Statutes* (NRS) that govern these entities are: NRS 706, motor carriers; NRS 706A, TNC; NRS 706B, autonomous vehicles; and their corresponding *Nevada Administrative Code* (NAC) 706, motor carriers; NAC 706A, TNC; and NAC 706B, autonomous vehicles. *Nevada Revised Statutes* 712 governs household goods storage and movers, and Title 49 CFR applies to those regulated entities covered under that. Movers are covered only within the State, and intercontinental movers are not covered.

TODD PARK (Chief of Enforcement, Nevada Transportation Authority, Nevada Department of Business and Industry):

Slide 3 covers NTA staffing. We have 41 total staff members: 3 paid commissioners; a deputy commissioner; 18 enforcement officers, including me; 6 compliance auditor-investigators; 3 application managers, who are all CPAs; 3 legal staff; 6 administrative staff; and an IT person. Nevada Transportation Authority covers the entire State, and Nevada continues to grow at a steady pace. The people in our agency do an outstanding job with the small staff we have.

Slide 4 lists the motor carriers in compliance: 21 airport transfer services, 113 charter buses, 46 charter limousines, 119 consent-only tows, 9 contract carriers and 1 horse-drawn vehicle. There are 85 nonconsent and consent tows, 7 nonemergency medical transfer services, 23 special services, 7 taxis, 16 scenic tours and 7 transportation network companies.

The important thing here is 8,438 non-TNC drivers. That is an approximate number because of an ongoing, fluid number of people who are the non-TNC drivers. We have 31,414 TNC drivers as of February this year—a large number of drivers who we oversee.

Passenger safety is our first priority, Slide 5. Coming from another state prior to coming to Nevada, I had no idea the regulations were so strict and effective to ensure the traveling public is safe in our State.

We process driver permits for all the industry except for the TNC tow carriers, the HHG and the employer vanpool companies. We process new carrier applications, and our CPAs are heavily involved in that area.

We conduct administrative and enforcement hearings once a month. Perpetrators must appear and testify in a hearing or citations are brought before our Board of Commissioners. Three commissioners preside over approximately 1,000 cases per year.

We also do audits and inspect existing carriers. Investigators enforce Nevada laws and regulations as well as the federal regulations we have adopted. We ensure the industry is providing the safest transportation to the passengers, and we coordinate efforts with federal, state and local agencies. I have made it a priority to reach out to local agencies in the south, and we have good relationships up north with the NTA and outside agencies. Many of these cases seem to overlap into other areas, and we are a small part of that. Not too long ago, a homicide in Las Vegas happened at a tow carrier yard. Las Vegas Metropolitan Police Department reached out to us, and we assisted them with some helpful information. We want to improve our agency efficiency and the services we provide.

On Slide 6, we have fully regulated versus partially regulated carriers. The difference is we only look at the financial end of things for fully regulated agencies. We definitely try to ensure that both fully and partially regulated

carriers are safe. Looking at the carriers under each category, I consider the TNC as partially regulated. The autonomous vehicles network companies have not filed for a Certificate of Public Convenience and Necessity (CPCN) as yet, but this is coming, and there are many processes in the works to facilitate these groups to get up and running.

Slide 7 reviews TNC Regulatory Compliance Reviews or audits twice a year ([Exhibit D](#)). They take 5 percent of randomly selected drivers, and we do these audits. We are also checking the vehicles and drivers. The transportation network companies' obligation to the Nevada Transportation Authority regulations is to annually submit a gross operating revenue, regulatory assessment fee, notification of any crashes involving drivers or autonomous vehicles and proof of insurance with proper coverage limits. I will discuss those coverage limits shortly.

Slide 8 lists the most common TNC violations. The top two involve NRS 706 and NRS 706A, statutes that regulate the TNC. My staff deals with many people who operate as a carrier—whether passenger transportation, tow company, household goods—and are supposed to have a CPCN but do not. We find this big violation frequently. *Nevada Revised Statutes* 706.476 that gives us the ability to impound somebody's vehicle is specific and uses the words "must be impounded" on these certain violations. We do not have any room to negotiate; the statute is clear that we must impound the vehicle. Prohibited acts are itemized in NRS 706A.280. Many times when we are dealing with TNC violators working off the application, we issue that citation, but that citation does not have an attached fine. Both NRS 706A.160 and NRS 706A.180 are used by our compliance team during the audits; six items relate to the drivers, and one item is specific to the vehicles.

My enforcement group performs a lot of sting operations, and that is one of our big events on a weekly basis. Recently, we heard about a local organized group with as many as 40 illegal operators, Slide 9, working frequently at the airport. Many complaints are coming from the airport regarding aggressive drivers trying to get rides. This group is holding preshift briefings, running countersurveillance on my enforcement team and photographing my officers at gas stations and when they are impounding vehicles. This is big business for them, and we have heard that some of these people are making \$2,000 to \$3,000 a night. During their preshift briefings, they will discuss which driver may have cocaine, so if a passenger shows up and wants cocaine, they will steer the rider to a

particular driver. Or if a passenger wants a prostitute or heroin or whatever the request, they will steer that person toward a particular driver. They are becoming sophisticated and making our job difficult. We do a good job of removing them from the airport area, then they head for the hotels and large events. It is incredible how many illegal drivers show up for large sporting events and concerts. It is big business, and they are making a lot of money doing this. Additionally, we are finding these people in possession of drugs and weapons.

Speaking specifically about TNC and off-application rides, most of us are familiar with Uber and Lyft. When a driver wants to give a ride for cash and is not on the application, it creates a big problem. My enforcement team works in plainclothes, standing around the TNC or valet areas while waiting to be solicited by a driver for a cash ride. Drivers want cash rides to make more money. If they charge a \$20 ride, they get \$20 cash and do not pay a percentage to the TNC they work for. Many times, they ask if we are cops; we say no, and they ask us if we have the app. We say no and use an excuse. If they offer to give us a ride for cash, then we identify ourselves as police officers who work for the State or the NTA. When we say we are police officers, they drop their heads and realize they have been caught. We have more people not complying as financial times get more difficult; people are fighting for cash. In the end, investigators impound the vehicle under NRS 706.476 for the driver not having a CPCN.

That certificate requires \$1.5 million of insurance for drivers providing commercial passenger transportation. Those insurance limits on Slide 11 are important for what we do. The top portion shows the expense to insure these vehicles: horse-drawn vehicle and taxi, \$500,000; \$1.5 million for an 8- to 15-passenger vehicle; \$5 million for a 16-passenger or more vehicle or charter bus; and freight-only HHG and tow at \$750,000.

Under the TNC, the driver providing a ride with a passenger in a car must have \$1.5 million insurance coverage. This is important because if you or your loved one gets into a TNC vehicle that has an accident and you or a loved one is injured or killed, the transportation network company will say you were not on our app during the ride, and the personal car insurance company will not pay for injuries either because the driver was providing commercial transportation when the accident occurred. That leaves the passenger out in the cold not able to pay for injuries and losses. This is why it is so important for drivers and companies

to have a CPCN or, in the TNC case, the permit which allows them to operate in our State.

SENATOR SPEARMAN:  
The sting occurs with law enforcement?

MR. PARK:  
Yes, the stings are facilitated by my group of officers, who are all at least category II police officers. Most of us are category I police officers.

SENATOR SPEARMAN:  
Some of the activity you mentioned occurring is specifically illegal and just popping up? Are these pop-up kind of folks?

MR. PARK:  
A lot of individual drivers have made friends and created groups to circumvent enforcement of these violations. They have become organized. We have had people from within the group talk with us and show us pictures of my investigators getting gas or impounding a vehicle. Recently, one of my supervisors came to me and said he saw a picture of himself doing an impound on another driver's phone. They were doing countersurveillance on our officers just as we are doing to them. I hope this answers your question.

SENATOR SPEARMAN:  
I have more questions, but I will take it offline.

MR. REYNOLDS:  
Passenger traffic has risen to new levels at Harry Reid International Airport. In some months, we are surpassing what we had in 2019. We are seeing as many as 500,000-plus passengers per week deplaning at the airport. That is approximately 2 million passenger arrivals per month. With those numbers of passenger arrivals versus available public transportation, it is difficult to meet the needs of the traveling public.

We are seeing an increase in TNC rides, gas and insurance costs. During the pandemic, we dropped down to less than 10,000 active TNC drivers, but now we are up to around 30,000. A similar situation with taxis in the area has approximately 3,500 medallions operating. We see probably 3,000 to 4,000 taxis operating during a 24-hour period to meet passenger needs. Plus all

the shuttles and limousines are still not meeting the passenger demands. We need every available public transportation.

That is the good news, bad news, but it is good news to see the passenger traffic come back, the casinos filling up and the convention businesses returning. However, special events—sporting events, Electric Daisy Carnival, concerts, professional rodeo—create transportation demand above and beyond normal levels. This creates opportunity for all types of illegal activity, including illegal drivers giving cash rides. We are gearing up to meet those needs, but we also have to provide enough public transportation to move people from point A to point B.

SENATOR DOÑATE:

With regard to your comments of what is happening at the airport, I see that every Friday and Sunday because I use TNC to get home. As part of the conversation we are having today, this is important for the record. As an example, can you explain what insurance Uber and Lyft must carry versus personal insurance? For me, it is helpful to understand what the TNC has to carry in terms of insurance requirements. That is something all of us are going to be interested in throughout today's hearing.

MR. REYNOLDS:

The company pays for the insurance. When people coming in are gypsy drivers who may not have insurance, even if they do, their insurance may not pay for an accident.

Regarding insurance limits on Slide 11, as a passenger in a car providing a ride, the required insurance coverage is \$1.5 million logged into the app. For example, if I logged into an app and hail a ride, the insurance coverage is \$50,000. If a TNC vehicle is enroute to pick up a ride, the vehicle is covered for \$100,000 in the event of an accident. When logged into an app with no ride, the coverage is \$25,000, so various levels of coverage are dependent on different phases of transportation.

SENATOR DOÑATE:

For example, let us say I need to generate additional income aside from my full-time job, decide to become an Uber driver and register as a “partner,” the term Uber uses for its drivers. In doing so, I register my car and go through the process. I already have personal vehicle insurance. Do I need additional

coverage provided by the TNC? If so, what are the limits? Is the TNC coverage required to pick up in cases where I may not be insured? What is the differential in coverage that occurs? That is part of the confusion.

MR. REYNOLDS:

You are required to have both personal vehicle insurance and the TNC insurance. Personal insurance coverage does not cover the TNC portion. When you register and become a TNC driver, company policy requires you have coverage through the TNC insurance company. Those insurance rates cover various phases of delivering the car to pick you up, dropping you off at a stationary location and waiting for another passenger to call on an app. All those phases are covered under the TNC insurance. Once you go off app—meaning you are no longer working for the TNC company—you are covered by your personal liability insurance.

DAWN GIBBONS (Chair/Commissioner, Nevada Transportation Authority, Nevada Department of Business and Industry):

One of the problems occurs on Friday and Saturday nights when our enforcement people come into work. These people have families and kids. They could manage all these problems in the arena at the events or even at Caesars and some of the larger hotels. They could come in and clear out all those people, but we do not have the manpower or the funds to police all these areas at once. It is getting dangerous now with sex trafficking and other crimes. Many dangerous groups and bad people are out there taking advantage of citizens and tourists. We need law enforcement help, and we need help to keep people safe. We certainly do not want something to happen to our enforcement people.

MR. REYNOLDS:

We have good relationships with Uber and Lyft and the transportation network companies as well as the taxi companies. Our enforcement group has a good rapport with the drivers and companies. We do not want to see licensed drivers fighting with illegal gypsy providers, and that does happen. We work closely with the companies and drivers to stay aware of situations out on the streets.

SENATOR SEEVERS GANSERT:

I want to get the magnitude; you said there are 30,000 TNC drivers, is that right?



MR. REYNOLDS:  
That is correct.

SENATOR SEEVERS GANSERT:  
And there are 3,000 to 3,500 cabs?

MR. REYNOLDS:  
There are about 3,550 medallions out, so with leased cabs you will have multiple drivers who take shifts. One cab may be out for 12 to 14 hours with different drivers because they are restricted on the number of hours a single driver may drive. We see cabs used multiple times because of leased cabs that are increasing somewhat.

SENATOR SEEVERS GANSERT:  
On Slide 9 where you talk about 40 illegal operators, are those 40 TNC operators, just individuals or cabdrivers? I want to get some clarification on that.

MR. PARK:  
Those are people who may or may not be on the TNC apps. They may be gypsies who are not working for any network company, or they could be working for a network company, and they connected with the unlicensed group to make some extra cash on the side. When I say 40 people, that number is just one group of people. I know of another group out there working as well, so they may not be TNC drivers at this time.

SENATOR SEEVERS GANSERT:  
That is helpful. I just wanted to understand the magnitude—we have 30,000 TNC drivers, 3,500 medallions and potentially 40-plus unlicensed illegal drivers.

CHAIR NEAL:  
We appreciate the NTA presentation so we can critically think about Senate Bill (S.B.) 125, which we are preparing to hear. We have a presenter from Nevada Justice Association.

**[SENATE BILL 125](#)**: Revises provisions relating to transportation (BDR 58-574)

MATTHEW L. SHARP (Nevada Justice Association):

The intent of our bill is to recognize the practical reality of what Uber provides. First, Uber is the means by which the transportation service is arranged, meaning picking the passenger up for transport from one end to the other; whether from a hotel to an airport, Uber is the means by which that occurs. Uber profits from the transportation service the driver provides to the customer, and the driver acts for the benefit of Uber. Those three things under the law refer to what is called "a common carrier." If you think of a bus or limousine, a common carrier means when you are in the business profiting from transportation services, you have a heightened responsibility to your passengers. You have to be more careful than the average driver. The reason it makes sense is that it is your profession, which is your business. That is why people come to you. When you go to a doctor who provides oncology care, that doctor provides a more-heightened level of care than your general practitioner does in providing cancer care. It is just a different business model that one has from the other. When you provide a service, we as a society expect accountability and responsibility.

That is the concept of S.B. 125, section 3, subsection 2, paragraph (c) to simply recognize Uber as a common carrier. That is the intent. I recognize as we are discussing today that there is some vagueness in this language. It is not our intent to make Uber a taxi company. We do not want to get into that fight. Paragraph (c) has work that needs to be done. I have some ideas that I could address with some of the opponents to the bill, but I want to make that point.

The second change we are looking at is in section 3, subsection 2, paragraph (d) that imposes what we call vicarious liability upon Uber. What vicarious liability means is that when you are directing somebody to provide a service, you are accountable for that person. If you had somebody come into your house to do some sort of remodel and in the course of that, the person you hire damages your neighbor's property, you are liable for that and you can go after the contractor to obtain that money back. It is simply a form of responsibility. I will acknowledge vicarious liability does have a context of an employer-employee relationship. Typically, what we talk about in vicarious liability is if my employee hurts someone while in the course and scope of his or her employment, I am responsible, but it is not exclusive. I would say paragraph (d) and our proposed amendment ([Exhibit E](#)) is not intending to make some kind of policy pronouncement that an Uber driver is the employee of Uber.

That is a different fight. That is not our fight, and that is not our issue. Our issue is simply to allow for a form of accountability.

Within this, I want to talk about the last phrase. I want to make sure we are all on the same page as to how this bill would work. If the driver is out waiting for rides, he has the app on. That is not a situation if he or she gets in a car accident; that is not vicarious liability under our bill. Rather, it is at the point where the Uber driver accepts the ride. That is when vicarious liability sticks in. There are two reasons for that. The first reason is if I am out driving for Uber, once I accept a rider, my private insurance company no longer covers me. There is an exclusion in your personal auto policy that you are not covered during for-hire driving. If I am driving down The Strip, have accepted the ride and run somebody over, there is no more than the minimum coverage for that injured person. It does not seem to make any logical sense that if we then reverse things and as long as I have a passenger in the car, then there is coverage available for Uber. It does not make any sense; that is why we have expanded that document while providing transportation services to a passenger who was connected to the driver. That is what we are talking about.

The other issue I would point out to the Committee is we have a system where if you are benefiting from the people who are driving your product or driving for a service, we have a concept of vicarious liability. For example, if somebody orders a pizza from Pizza Hut and the Pizza Hut driver runs into you, Pizza Hut is responsible. They are receiving the benefit. That is the concept of what we are talking about here. I want to make sure the Committee is aware, generally speaking, there is \$1.5 million in coverage for Uber drivers. Separately, there is a \$300 million policy that Uber has for itself. Uber recognizes this very issue we are talking about. We are just codifying this to make sure that people are protected; people who are injured due to no fault of their own receive some protection and accountability. That is basically what we are talking about. In terms of the amendment, I do not think the amendment really satisfies the issues. The primary issue is the broadness of the NRS 706 language. That is not our intent to impose all of the requirements that the transportation service presented to us. But I would point out that Uber essentially does no background check into their drivers. There have been many cases throughout the Country of horrible things Uber drivers have done because of that fact—rapes, criminal acts. So there is a sense of encouraging accountability when you have vicarious liability because you have an incentive to make sure the people on the road are safe. That does not exist right now.

CHAIR NEAL:

Before we get into questions, I want clarity for the Committee. Was there to be an amendment to section 2 as well in the bill, removing that strikeout in section 2, subsection 3?

MR. SHARP:

Yes, that should be taken out. That is correct.

CHAIR NEAL:

Because you have the amendments, you are clarifying the amendments. When the members ask the question, ask the question based on if you are going to ask from section 1, section 2 or section 3. The majority of the issues are in section 3, so speak to the amendment that he needs to clarify because this amendment is not clean. We have to get an answer as to what is ultimately the proposed policy.

SENATOR SPEARMAN:

I was struck by your comment that Uber does not do background checks on their drivers. I thought we had that in a bill when we first brought Uber to Nevada in 2015. That was one of the sticking points if I remember correctly.

MR. SHARP:

I do not recall the specifics of the 2015 bill. I can only talk to you about my own personal experience and the personal experience of others within our association regarding some of the more outrageous-type cases. I do not believe Uber subjects its drivers to the same type of investigation that a taxicab driver would be subjected to under NRS 706.

SENATOR DOÑATE:

I am going to ask you a clarifying question that is important. I used to work for Uber, and I was a part of the background check team. There are background checks being performed, and they were stringent. For example, we had folks with outdated speeding tickets, and we would not let them pass. For clarification, are you saying that based on the members you are asking, there are folks surpassing their background checks and you are accounting those issues? Are there certain circumstances you can describe? It is important to clarify because compliance, even from personal experience, is happening. I want to make sure we are understanding you clearly.

MR. SHARP:

We may be talking two different languages. I acknowledged there is a basic background check; maybe there is a dispute regarding the reasonableness of that background check. I can tell you instances, and there have been many, where Uber drivers have raped passengers, and they were not identified as having those propensities. I am referring to those situations that do happen.

SENATOR SEEVERS GANSERT:

I want a better understanding of how this bill would affect the drivers and being a common carrier. You laid out three tenets of a common carrier. I am asking whether Uber or representatives of TNC can discuss how they would be affected as a common carrier.

MR. SHARP:

Our intent is to recognize that Uber is a common carrier. I mean this in the common-law sense, not in the statutory sense. In the common-law sense, drivers have an added duty since they are in the business of providing a transportation service. They have to act with more care in driving than you and I do. That is the concept of a common carrier in common law. I recognize in reading this language that there is confusion. It is not our intent to impose upon either the drivers or Uber all of the provisions in NRS 706. I recognize that, and that is my answer.

SENATOR SEEVERS GANSERT:

Madam Chair, how are you going to process this bill? Do we take public comment after this? How do we create a record of what is understood and not?

CHAIR NEAL:

We take opposition and neutral testimony on what is being presented as the conceptual amendment based on the proposed amendment, [Exhibit E](#). What needs to happen right now is a clear statement from Mr. Sharp of what the bill does in the conceptual amendment we do not have at this time. When people ask, answer or oppose, they need to know what they are opposing.

MR. SHARP:

With regard to section 3, subsection 2, paragraph (c), S.B. 125 imposes the duties of a common carrier as provided in the common law or imposes the duties of the common carrier and strikes out "set forth in chapter 706 of NRS." But it would make sense to remove the phrase "set forth in chapter 706 of

NRS” from section 3, subsection 2, paragraph (c). As I said, the duty of a common carrier is one imposed by the law, not necessarily imposed by statute. There are statutory regulations for common carriers, many of which, on their face, do not seem to apply to an Uber driver.

CHAIR NEAL:

What needs to be clarified on the record is: Did the independent contractor relationship change in the TNC to the driver? I thought we had established them as independent contractors. I am asking this question because when we talk about vicarious liability and its expansion, are we now saying vicarious liability is going to now take in the independent contractor and adjust that relationship? Is that what is being anticipated by this language?

MR. SHARP:

Two issues: First, the answer to the question on independent contractors is no, this bill does not change that. For example, somebody just driving and not on the app is considered an independent contractor—no question about that—and not related to Uber at that point. Second, when the driver accepts the ride, he or she is under the control of Uber, acting for the benefit of Uber at that point in time, which is when vicarious liability would attach.

Vicarious liability is different; it does not make the driver an employee with all the other benefits related to workers’ comp, or tax issues beyond the civil justice system. All we are dealing with is a concept of what is known as principal agent. At that point in time when the driver acts for the benefit of Uber is when the vicarious liability in our view should start. That is why we have the language we have in section 3, subsection 2, paragraph (d).

CHAIR NEAL:

That is helpful and definitely clearer. When you accept the ride, the TNC is on the hook and then vicarious liability kicks in because it is for the benefit of Uber; then when the app is off, it goes back to the driver’s personal commercial insurance. If an accident were to occur with John riding in the car heading home, then his personal commercial insurance is targeted.

MR. SHARP:

The only clarification I have is the app can still be on while you are driving but not driving for Uber’s benefit. While the app is on and you are just driving around, our bill would have no effect, no vicarious liability. And yes, I believe

the driver's own personal insurance would cover the driver. Once the ride is accepted, everything changes.

SENATOR SPEARMAN:

I looked at A.B. No. 175 of the 78th Session, and sections 30 and 55 speak to the requirement to have background checks and prescribe what those checks should be. When and if Uber comes up, I need to make sure it is following the law.

MR. SHARP:

I think the issue with the background checks is the reasonableness of those background checks in terms of what is being followed. It is probably a slight on my part to bring that up in this discussion because we are not here to talk about the background checks per se. My point in this debate is focusing upon the vicarious liability and the common carrier issues.

SENATOR SEEVERS GANSERT:

I do not want to muddy this either. There are all sorts of apps. There is an app so you can have someone walk your dog, you can have somebody house sit, you can rent a house, apps put people together for a service. I am not sure how this differs from some of those apps virtually connecting people for a service with a portion of money that goes to whomever is supporting the app because they do not control that person. They are not in charge of that person. That person is doing work and utilizing an app to connect and to get the relationship of the business. It just seems that changing language like this may affect other platforms and work that entrepreneurial people do independently.

MR. SHARP:

Our bill only deals with the Uber-type apps, but Uber is in control of that driver once the ride is accepted. If you need a ride at your house and I am an Uber driver who accepts that ride, I am directed to go to your house and transport you to wherever you designate in the app. I am under Uber's control under my example for that limited period of time. I completely agree with you in terms of when the app is on and the ride has not been accepted, Uber is not in control of that driver and should not be responsible for the negligence of that driver; under section 3, subsection 2, paragraph (d), Uber would not be.

CHAIR NEAL:

Senator Doñate has a clarifying question he wants to ask. The confusion created is not good. When Senator Doñate asks this question, I want the answer to be as clear as possible because many TNC drivers did not understand the bill when it came out, and this hearing is probably further creating anxiety about the bill. We need to be crystal clear for all of those TNC drivers who have tuned in. I am sure it is not all 30,000 but the ones who find the time to listen and tweet out or comment on social media. I want clarity for those who sent out messages being not clear on what S.B. 125 is doing. This is the moment to really make it clear, and then we can move to support and opposition.

SENATOR DOÑATE:

My question is going to be helpful. I reflect back on my personal experience when I started working for Uber back in 2015. I was part of the operations team. This is from personal experience. I do not represent them, I am not affiliated with them, so this is part of my line of questioning. I distinctly remember that as we were enrolling folks that the broad reality of what Senator Neal was mentioning existed in that many folks did not understand the requirements that enabled one to start doing this. In general, it is the same problem that we have with other applications, which is that it is a connection service, right?

And you anticipate, based on your friend connecting you and them enrolling and saying, "Hey, this is an opportunity for you to generate extra income. All you have to do is sign up on the app, you get your vehicle inspected and start getting rides." Sometimes in that process you might go through the background check and registration process, but no one is guiding your hand as to the tax implications. No one is telling you that you have to collect one-third of your payments under this application and pay a certain amount of taxes. No one is educating you as to the actual requirements, even what it means to become an independent contractor. That is part of the confusion that I believe is your intention, which is as soon as you turn on the app, speaking from a driver's perspective, there are scenarios where you could be driving down Las Vegas Boulevard and get a notification saying there is a ride for you and asking if you accept. Then in an instant it can come off, right? Because that app has partnered with someone else. That is confusing because how do you identify in those small milliseconds whose personal insurance is covered? That is part of the structure we were elaborating on earlier today. The problem you are trying to solve is important, and this is what Chair Neal was mentioning. What are the



experiences in the frustrations you are seeing with the folks you interact with, that your membership interacts with? If you have concerns that Committee members are not being supportive enough, the common person is not being supported enough or if drivers are finding themselves in areas where policy fails, that is important for us to understand. What initial outcome would you like to see?

MR. SHARP:

Let me just make one point. This bill is not an attack on Uber as a business. We are not here to attack drivers. We are trying to create a system of responsibility when someone is hurt by the negligence of a driver, and I would argue that our bill provides more protection for the driver. Let me give an example. A ride is accepted, and the driver is going to pick up that ride. If they get into a car accident, they do not have any coverage. And that is not in anybody's best interest. At the same time, we acknowledge that regardless of the definition of Uber, Uber receives a benefit when that driver is going to pick up the ride. With the vicarious liability, we address that issue and provide additional protections to the driver because the driver with passenger insurance coverage is \$1.5 million. Though \$1.5 million does not go far if it is a catastrophic car accident and somebody is rendered quadriplegic, Uber has a much larger policy that would trigger to protect the driver. We are not here to attack the drivers. We are trying to create a fair system that recognizes Uber is in the business of profiting from the driver's services.

MICHAEL HILLERBY (Lyft, Inc.):

The proponents had about 30 minutes. I cannot begin to address everything in two minutes, but I will do my best and stand for any questions because it sounds like there may be some. I have worked for Lyft and represented them since 2015, so I do have some significant history there. *Nevada Revised Statutes* 706A.060 defines transportation services for the purposes of the \$1.5 million policy. That starts the moment a driver and rider are matched in the app. It has nothing to do with physical proximity to one another. That coverage extends until the moment the ride ends and every passenger has exited the vehicle. We are also required under State law to carry additional coverage as referenced by the Nevada Transportation Authority of \$50,000 for a single insured, \$100,000 for two or more and \$25,000 property coverage anytime the app is on. A driver may have no intention of picking up a passenger. He or she may have forgotten to turn the app off and be driving home from the convenience store to pick up a child. The driver is covered by the app if

something happens in that period of time. Lyft also provides voluntary medical insurance in a no-fault policy.

Testimony from Mr. Sharp acknowledged that the companies do carry substantial liability policies over and above the minimum coverage required under State law of \$1.5 million and the additional I just talked about. They can and do sue the TNC for that exact coverage. I am baffled at what problem we are trying to solve. They may need to go through an extra step to get beyond that \$1.5 million, which is multiples of what some others in the transportation industry and certainly what you and I as individuals are required to carry by law.

They referenced just over 31,000 TNC drivers currently registered through the NTA by the companies represents millions and millions of rides each year. We are now an integral part of the tourism industry of moving people around town. Lyft has given over 600,000 nonemergency medical transport rides since 2019; 65 percent of our drivers and riders identify as minorities and people of color; and 13 percent of our drivers are veterans. In terms of the background checks and other issues, those are well defined in NRS 706A.160 and required at the time of enrollment on the app. The Department of Motor Vehicles driving record check, required annually thereafter; criminal background check; and check of the sex offender registry is required at the time of application and a minimum of every three years after that. There are a variety of disqualifying offenses listed in that same statute, the requirements that any driver also maintain the otherwise legally required Nevada minimum insurance on his or her own car.

Both pieces in this bill fundamentally threaten the business model. It is settled law for the last eight years in this State as passed by this Body, and the system is working well—that given a different regulatory scheme was appropriate, was approved by this Body overwhelmingly and has been in existence and worked in a stellar fashion ever since then. The industry is different from the traditional common carrier industry; it is a different type of relationship. The courts have long acknowledged that as well across the Country.

A.J. DELAP (Uber Technologies, Inc.):

I have Harry Hartfield on Zoom who can address these issues.

HARRY HARTFIELD (Uber Western States):

No state in the Country regulates the TNC as a common carrier. If they did, it would substantially change the way we operate our business. In Nevada, all

common carriers are required to be fingerprinted. Law enforcement experts, including former U.S. Attorney General Eric Holder, have consistently urged against the use of fingerprint background checks because they only capture someone's arrest, not a conviction. Because Black men are arrested but not charged or convicted at such disproportionate levels, communities of color are disproportionately impacted by fingerprint background checks. And there is no evidence that fingerprinting makes the passenger safer. We perform a thorough, rigorous background check on every single driver, and the NTA conducts an audit to review our drivers to see if they passed the background check. Drivers who do not pass a background check are immediately removed from the platform and are not able to drive in the first place. That is all written into statute and goes through State, local and federal databases.

On the insurance side, we have a thorough regulatory structure that includes background checks, driving history records, vehicle inspections, mandatory insurance policies and a requirement to maintain State business licenses. Nevada is the only place in the Country that requires that and various vehicle requirements.

This bill would throw out the entire structure and require the NTA to start from scratch. The new insurance requirements mandated in the law will also cause significant price increases for riders. The TNC are already required to maintain a \$1.5 million automobile liability insurance policy any time a trip has been accepted, and I note that that is the highest in the entire Country. Only 2 other states out of 50 along with Nevada have \$1.5 million insurance requirements. I can assure you attorneys already claim the TNC are vicariously liable as long as they show direct liability through negligence. This bill essentially just gets rid of the need for proof altogether. For instance, under this law, if a driver has a fender bender while on a trip and the damages are \$4,000, a lawyer could add Uber to the lawsuit even though the damages are clearly covered by the \$1.5 million coverage which we are required to provide.

A recent *Wall Street Journal* article estimated that 27 percent of the revenue goes to cover the cost of insurance. We just informed the NTA that we would be increasing prices by 5 percent to cover the increased cost of insurance in Nevada.

MORGAN ROTH (Motional):

Motional is one of the autonomous vehicle companies that operates in Nevada. We are proud to have Nevada as our operation's home base, where due to the clear and well-thought-out autonomous vehicle (AV) policy regime, we have dedicated building our state-of-the-art technology from concept to testing and now deployment here. Nevada is home to over 350 employees of Motional at our Las Vegas technical center, part of a global team of 1,500 folks. The regulatory structure and partnerships at the various levels of government we have here has enabled us to successfully pursue commercial deployment and put the Silver State at the forefront of AV technology innovation. Senate Bill 125 would threaten AV technology deployment and advancement. The legislation creates uncertainties within the regulatory side and proposes unnecessary increases to insurance and liability requirements. These changes would further discourage safe, innovative AV technologies from being deployed here. Those technologies have the potential to dramatically improve road safety by reducing roadway accidents and fatalities and promoting job growth in an emerging industry.

We are on track to commence full driverless operations with our TNC partners here in Nevada, which the NTA presented earlier. This has only been possible because of the existing regulations that provide clear guidelines regarding safety, rider protection, liability and insurance. We have chosen Nevada because of the State's openness to innovation and the right balance of commonsense regulatory policies that emphasize safe technologies and job creation. Senate Bill 125 would undermine this progress and raise serious concerns for our business moving forward. The bill proposes dramatic regulatory changes as Uber just described that we do not see in any other state. Legislating these changes would put our industry in a serious position. We respectfully oppose the bill and hope to not see it move forward.

JESSE WADHAMS (Vegas Chamber; Nevada Insurance Council):

I will not belabor the point. We oppose S.B. 125, and we look forward to working on any amendments.

CHAIR NEAL:

The Committee has seven letters ([Exhibit F](#)) in opposition to S.B. 125. We will close the hearing on S.B. 125 and open the hearing on S.B. 140.

**SENATE BILL 140**: Revises provisions relating to the distribution of the excise tax on live entertainment. (BDR 32-166)

SENATOR IRA HANSEN (Senatorial District No. 14):

With me today is Vice Chairman of the Pershing County Commission, Larry Rackley, and Sheriff of Pershing County, Jerry Allen.

This bill is all about basic fairness. Before we get into the details of the bill. The issue here is simple. Pershing County has a population of 5,000 people. It is 6,600 square miles. In addition, it has a population of 1,500 prisoners in the State prison. In other words, there is less than one person per square mile in Pershing County, which used to be the definition of the frontier.

For a brief window of time, roughly from July 31 through October 15, the County has a giant event that takes place annually called Burning Man, officially, Black Rock City, LLC. Basically a population the size of the City of Sparks comes there for at least a week to two weeks and becomes the fifth-largest city in Nevada during that window of time. Little Pershing County with its 5,000 people and entire budget of about \$11 million ends up paying a disproportionate share of the cost that happens when you have that kind of event in your county.

Let us do a quick synopsis of S.B. 140. In Nevada, the Live Entertainment Tax (LET) applies to events like this greater than 15,000 people with the tax at 9 percent of the admission fee. Admission fees are enormous for this event and have changed substantially through the years. All of the LET collected through admission fees goes to the General Fund. Pershing County has recouped some of its costs by an agreement negotiated in 2013. That agreement is ten years old now and coming up for renewal. At this time, if Burning Man occurs again in Pershing County, the County has no opportunity to collect its monies.

The bill proposes to take that 9 percent collected for the Live Entertainment Tax and give approximately half of that to the County where the event occurs. I asked the Nevada Department of Taxation what the amount of tax revenue was collected and was informed that information is confidential because Black Rock City, LLC, is a nonprofit. We estimated using the multipliers and believe it is in the neighborhood of over \$2 million. Potentially, the County would recover some of its costs up to \$1 million. The whole purpose of the bill

is to modify distribution of the current tax to help Pershing County recover some of its costs for hosting the Burning Man event.

To give you a few of the details, we will start with Sheriff Allen and then Commissioner Rackley can explain how Burning Man has a disproportionate impact on the County and its revenues.

JERRY ALLEN (Pershing County Sheriff):

We focus on Burning Man because the largest event in the United States permitted on public land happens in our County. Before the State imposed the LET, Burning Man used to provide donations to several entities within Pershing County—our library, senior center, school district—to name a few. As soon as that excise tax came in, the nonprofit clamped shut to try and save money. Those costs now have to be recovered by other entities throughout the County's budgeting process.

This festival is not going anywhere. If you look at the bill, other counties are listed, some of which do have the area for this festival. However, because of the close proximity to the airport and the Washoe County-Carson City hub, where these visitors like to visit, we think the festival is going to stay in Pershing County. We are asking to be reimbursed for some of the funds the County expends in providing law enforcement services and other administrative services to the festival.

As a reference, we were in Senator Hansen's office, looking up the current cost of a Burning Man ticket, which is \$628 plus \$150 to park your car. Those prices were unheard of in northern Nevada until Burning Man came along. If you want a week of unrestricted access to the festival, it is \$3,105 plus the \$150 parking fee. Additionally, Burning Man brings in a lot of celebrities to this festival—the plug and play camps—and tickets start at \$10,000 on up. Those tickets provide you with lodging, food, camp setup and teardown. At the end of a stay, those people leave everything in camp, and the Burning Man crew cleans it up and brings it back.

This festival takes a toll on Pershing County. It is out at the edge of Pershing County, about 8 to 12 miles inside the County line from Washoe County. The sheriff's office has to basically build another office out there so we can function and operate. Under the minute amount of money we receive now with the 2013 settlement agreement, we cannot provide adequate

law enforcement. These funds also have to go for all County administrative costs and other costs accrued; it is not strictly for law enforcement. My thought process through this whole thing was not to cause a burden. If we increase the cost to Burning Man, it will push it off to participants. I do not want to cause a burden to them or to the State; however, since the event is in Pershing County, some of that money needs to come back to the County.

There are events in other small counties, and I would like to advocate for them as well. They are getting overburdened by some of the events taking place that cannot be managed under the current financial infrastructure.

LARRY RACKLEY (Vice Chairman, Pershing County Board of Commissioners):  
The main thing I would like to see changed involves those expenses the County covers that are not reimbursed. Why should the taxpayers of Pershing County—who more than likely do not attend Burning Man—have to pay for an event in which they do not participate? It needs to change so we can recover our costs.

SENATOR HANSEN:

I have been watching the Burning Man event since it started, and it has changed completely. Originally, it was a bunch of older hippies from the Bay Area who came out there to relive their youth. It has turned into a major corporate event. When you do the math on those ticket prices, multiply that by 70,000 people purchasing them, you are no longer looking at a bunch of hippies in vans smoking pot. This is a significant event. They have actually set up an airport out there now.

It is only reasonable that the folks making enormous amounts of money from this event should at least compensate Pershing County. The County should not be subsidizing an event that generates at least \$50 million.

SENATOR DOÑATE:

Burning Man is a big moneymaker. We all understand that. There is a partnership with public lands and a cost to clean up afterward. The theme of the folks who attend is to pack it in and then bring everything back. Obviously, that does not always happen, especially when you have tourists from other countries who do not respect our lands. The important part mentioned for our sake as Committee members is obviously the burden that you as community members are experiencing. Have you quantified the budget shortfalls? You mentioned law enforcement, general county services and that before the

2013 settlement agreement, you were receiving those funds from donations. Now, because of this change, you no longer receive the donations. Do you have an estimate of how much the budget shortfall is per year or what that actually looks like?

SHERIFF ALLEN:

It is hard to quantify because some of those donations are \$500 or \$1,000. Throughout the County, money donated before the tax was somewhere in the neighborhood of \$8,000 to \$10,000. From the law enforcement perspective, the first year I took office as Sheriff of Pershing County, I went over budget by \$40,000 just trying to provide adequate law enforcement to the festival. This was before I had been advised that we had to work within the constraints of the budget. Doing so, I cannot provide adequate law enforcement to this festival; it is far too large for the resources we have. We are talking somewhere in the neighborhood of \$60,000 to \$100,000 minimum in our coverage of other places in the County.

SENATOR DOÑATE:

That estimate is specifically for law enforcement only, does not include any other budget areas and is just one example of what happens annually, correct?

SHERIFF ALLEN:

Yes.

SENATOR SEEVERS GANSERT:

You mentioned your agreement in place since 2013 that is expiring. What does that agreement look like? How much money is the festival able to give you through that agreement?

SHERIFF ALLEN:

That agreement is based on festival population and paid participants. In a structured event of what we have, last year we received about \$375,000 for the festival plus Consumer Price Index. We worked out about \$380,000 to pull off this festival for Pershing County as a whole. That includes law enforcement, indigent funds, administrative funds, anything of that nature.

SENATOR SEEVERS GANSERT:

And you do not think that agreement may be renewed?



SENATOR HANSEN:

I have the agreement in my hands. What is interesting here is the definition of a peak population. Peak population shall be defined as the maximum population of Black Rock City at any time during the Burning Man event, as required by the BLM special recreation permit. That is supposed to be the multiplier. Black Rock City decided that peak population is only the ticketed portion of the people who are at the festival whereas an additional 20,000 to 25,000 people are there who do not pay the admission fee. Therefore, they are not included in the peak population but are included in the number of people the Sheriff and County Commission help supervise. So the event by the Burning Man interpretation basically cheats the County out of roughly 25 percent of the money it is legitimately entitled to and may have covered some of these costs.

SHERIFF ALLEN:

To answer your primary question, yes, we are going to renegotiate this contract. However, that will be negotiated through the attorneys and legal wranglings of the County. My thought process is yes, we will come to an agreement, but what that will be and how long that will take, I do not know.

As I mentioned, for this festival we have law enforcement on site, we have to build an entire substation out there, and we have to provide housing for our staff and deputies. A few years ago, we purchased a portable office building and turned that into a temporary holding facility. So we have been able to make some things happen. In the same time frame, we have had a sexual assault nurse on staff in Gerlach ready to provide a better service to victims and survivors of sexual assault at the festival that is much faster than getting them to Reno and further traumatizing them after such a heinous act. This is another quite substantial service covered in the agreement. That is not something we would do in our normal course of business.

CHAIR NEAL:

Why not just codify the agreement in statute so at least you have the peak population definition you want so there is no going back and forth. Ten years ago, Burning Man was a new thing and we were more lenient, but now you know what it is, right? You do not have to play; just statutorily determine what you would like to see for yourselves. You may want to consider that. And instead of doing the percentage, why not just take a flat amount of money off the LET at the beginning of the year and do a sweep for \$1 million off the top of the revenue.

SHERIFF ALLEN:

Those are good questions. The first question comes back to the history of how this settlement agreement came about. The history is written into the settlement agreement, and we can provide that to Committee members if you like. This came about because for quite a while, the Board of Commissioners did not enforce NRS for the festival Live Entertainment Tax. When we tried to enforce the tax as statutorily required without an exemption written into law for the festival ordinance, Burning Man sued us. We lost the suit and the settlement agreement came about.

To answer your second question, I would love to have the definition of peak population codified statutorily because, in my opinion, everybody out there is part of the population of that city—just like any other city, Carson City, Reno, Lovelock. Everybody who lives and works there is a citizen, a resident, under that population. We have 1,600 inmates in our correctional facility who are not permanent residents there, but they are still counted as part of our population. My opinion is that everybody who works there is included in that population. However, that is another legal wrangling outside of my purview, so that would have to be renegotiated. As far as your second question to take it off the top, I am not sure.

CHAIR NEAL:

Just do a flat amount versus a percentage.

SHERIFF ALLEN:

Right, and we have tried that. Pershing County just lacks the legal resources to outwangle Burning Man to make that happen. We absolutely need the State's assistance on those types of things.

CHAIR NEAL:

Just a quick follow-up because I am curious and definitely want to see the agreement. What was the basis of the suit? What did they sue you on, for the festival tax?

SHERIFF ALLEN:

For years, Pershing County did not enforce the festival ordinance in statute. It is in the history of this agreement; the district attorney sued the Board of County Commissioners, telling them they had to enforce that statute because they were allowing for no exemption. When they did that, Burning Man sued us in federal

court. That is how this settlement agreement came about, and it is written into the agreement.

SENATOR HANSEN:

I did not include the whole comprehensive agreement because it does not have anything to do with the bill itself. This is a previous agreement. The concept of the bill is to streamline the whole process, make it simple and have a Live Entertainment Tax. It is definitely based on a population curve. Responsibilities increase or decrease based on population. The Live Entertainment Tax is basically based on a per head tax, so it was a quick, easy fix. I will provide a copy of the complete agreement, but I did not want to throw it in the mix initially because it actually clouds the issue. We want to simply redirect an existing tax so the County gets more of it rather than trying to come up with more ideas.

However, your idea is excellent. We are going to come up with a flat fee or something like that. On the part of the County, it is a little disturbing about how it has to come and almost grovel before Burning Man and act like, well can you at least pay us the bare minimum? What happened to the idea of a big giant festival like this actually helping the people who live in the County pay for some of the other services as well? We are in a County of one main industry in the Coeur Rochester mine, and the second-biggest industry is the State prison. If you have a \$50 million-plus festival that shows up, I do not see anything wrong with these guys getting at least a little bit more than the bare minimum costs for providing these services. Since when do we look at tax revenue as okay to have the absolute minimum to do the basic services and not get anything in addition that may benefit your city for swimming pools, libraries, senior citizen centers? We want to make sure Burning Man gets the maximum possible dollars kept irrespective of the harm it ultimately does to the people living in the County.

Just talking to both these gentlemen and the County overall, I almost have an irritated feeling like they are sitting there groveling before this giant corporation that shows up in their County for a few weeks and then threatens to sue them if they dare take a little bit of additional revenue to pay some of the needed services in their own County. I am not against the idea of a flat fee or something like that. I did want to give you an idea of where it came from to keep it simple. Financially, Burning Man is making out like bandits compared to

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what it pays, compared to the services and the impact it has on the citizens of Pershing County.

SENATOR BUCK:

You had mentioned that Burning Man is a nonprofit. Is that true?

SENATOR HANSEN:

Yes, Burning Man is officially considered an *Internal Revenue Code* 501(c)(3) nonprofit corporation.

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CHAIR NEAL:

Thank you for the presentation on S.B. 140; it is a compelling argument. This meeting is adjourned at 2:51 p.m.

RESPECTFULLY SUBMITTED:

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Janet Stokes,  
Committee Secretary

APPROVED BY:

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Senator Dina Neal, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Introduced on Minute Report Page No.</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	1		Attendance Roster
	C	2	Nevada Transportation Authority	Presentation
	D	4	Nevada Transportation Authority	Transportation Network Companies
S.B.125	E	10	Nevada Justice Association	Proposed Amendment
S.B.125	F	20	Senator Dina Neal	Seven Letters in Opposition