

**MINUTES OF THE  
SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY**

**Seventy-third Session  
May 10, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 1:39 p.m. on Tuesday, May 10, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dennis Nolan, Chair  
Senator Joe Heck, Vice Chair  
Senator Mark E. Amodei  
Senator Maggie Carlton  
Senator Steven Horsford

**COMMITTEE MEMBERS ABSENT:**

Senator Maurice E. Washington (Excused)  
Senator Michael A. Schneider (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Pete Goicoechea, Assembly District No. 35  
Assemblywoman Peggy Pierce, Assembly District No. 3

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Committee Policy Analyst  
James Puffer, Intern to Senator Nolan  
Lee-Ann Keever, Committee Secretary

**OTHERS PRESENT:**

Alfredo Alonso, Alliance of Automobile Manufacturers  
Robert Roshak, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and  
Chiefs' Association  
Kate Diehl, Property and Casualty Insurers Association of America

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Michael D. Geeser, American Automobile Association of Nevada  
Ronald S. Levine, Nevada Motor Transport Association  
Taylor Stack, Nevada Hay Industry

Chair Nolan opened the hearing on Assembly Bill (A.B.) 315.

[ASSEMBLY BILL 315 \(1st Reprint\)](#): Enacts provisions relating to event recording devices in motor vehicles. (BDR 43-894)

Assemblywoman Peggy Pierce, Assembly District No. 3, said that after an airplane crashed, investigators looked for the airplane's black box. The black box recorded all cockpit communications and other information which helped investigators determine why the airplane crashed. She explained that an event recording device (ERD) operated in a similar fashion when installed in automobiles. Currently, 25 million vehicles in the United States were equipped with ERDs.

In case of an accident, an ERD noted the driver's use of brakes, seat belts, airbags and the speed at which the vehicle was operating when the accident occurred. The National Transportation Safety Board (NTSB) urged all automobile manufacturers to install ERDs in all new cars. The devices made accident investigation and reconstruction easier.

Assemblywoman Pierce explained the devices began recording only after a vehicle's airbag had been deployed or approximately five seconds after impact. She added most witnesses were unable to remember what transpired in an accident. Most of the data recorded by an ERD could be downloaded onto a computer.

Assemblywoman Pierce stated the California Legislature had been concerned about the privacy of those drivers whose vehicles were equipped with ERDs. That body passed the first legislation in the country dealing with the use of ERDs in vehicles. She said that even though the ERDs for automobiles did not record audio, California State Senator Tim Leslie was worried about the privacy of those individuals whose vehicles were equipped with ERDs. Senator Leslie believed the privacy of those individuals was protected by the Fourth Amendment of the United States Constitution.

Under Senator Leslie's bill, the owner of any new vehicle outfitted with an ERD had to be informed that the vehicle was equipped with an ERD and that the data on the ERD could not be downloaded without the owner's permission. The only exceptions to that law were through court orders or if the information was to be used for medical or safety research. The information downloaded could not be traced back to the vehicle or its owner.

Assemblywoman Pierce noted that she had been working with car dealers and manufacturers on [A.B. 315](#), which resulted in a proposed amendment to the bill ([Exhibit C](#)). Assemblywoman Pierce said all the involved parties agreed on the amendment.

The proposed amendment changed section 1, subsection 1 of the bill by describing an ERD in the first paragraph of the bill. Additionally, the amendment required that the owner's manual of any vehicle equipped with an ERD had to include the description of an ERD contained in section 1, subsection 1.

Section 1, subsection 2 had been deleted from the bill and replaced with language contained in a piece of North Dakota legislation ([Exhibit D](#)) which had been recently enacted. Assemblywoman Pierce explained the only changes made to the North Dakota legislation had been to include references to a lessee. The change mandated that a lease or purchase contract for a vehicle would inform a lessee that there was the possibility of an ERD being installed in the vehicle. The notice had to be posted conspicuously in the contract.

Assemblywoman Pierce stated that the final amendment used the same definition of "owner" which had been used by the California Legislature in its legislation. She noted the automobile manufacturers were using California's legislation as model legislation.

Assemblywoman Pierce recapped the amendment by saying it required owners to be notified that their vehicles were equipped with an ERD; that the information contained on the ERD was the property of a vehicle's owner; that the information could not be downloaded without a court order, the owner's permission or for use in research as long as the origins of the information could not be traced to a vehicle or its owner.

Assemblywoman Pierce stated that representatives of the insurance industry proposed an amendment to the bill which she felt watered down the privacy

issue for consumers. She stated that other states which had passed similar legislation had disregarded similar amendments proposed by insurance-industry representatives.

Senator Carlton wanted to know where the ERD would be located in a vehicle. Assemblywoman Pierce said she did not know where the ERDs were located in the vehicles. Senator Carlton wanted to know whether she had any responsibility to ensure the continued operation of an ERD if one of her vehicles was equipped with the device. Specifically, the Senator wanted to know if she could disarm the device so that it would not operate. Assemblywoman Pierce said she thought that a vehicle's owner would be able to disarm an ERD if he or she chose to do so. The Assemblywoman added she was unaware of any legislation which prevented a vehicle owner from disarming or removing an ERD from a vehicle.

Alfredo Alonso, Alliance of Automobile Manufacturers, stated an ERD was integrated into a vehicle's safety system. He said he did not think it was possible for an owner to remove or disarm an ERD. Mr. Alonso added it was possible a vehicle's warranty would be voided if the owner decided to remove or disarm the vehicle's ERD. He promised to research the matter and provide the Committee with information on whether or not an ERD could be disarmed or removed from a vehicle and the consequences the vehicle's owner would face if he or she elected to remove the ERD.

Chair Nolan said he assumed that an ERD recorded only information concerning a vehicle's performance or a person's driving habits prior to an accident and that no personal information would be recorded by an ERD. Mr. Alonso said the device recorded 1 percent or less of a person's driving habits. The ERD recorded and kept a record of those events which transpired prior to an accident.

Chair Nolan wanted to know whether the information stored on an ERD would be used by law enforcement to aid in the investigations of accidents. Assemblywoman Pierce stated law-enforcement officials had used the information stored in ERDs to aid with accident investigations. She reminded the Committee members of an accident which occurred in Las Vegas approximately six months previously. In that accident, an elderly gentleman drove off the roof of a six-story parking garage. The gentleman's vehicle had been equipped with an ERD and the information stored on the device had aided in the investigation of the accident. It had been determined that the gentleman had stepped on the

gas pedal instead of the brake, which caused him to drive off the roof of the parking garage.

Assemblywoman Pierce said the Las Vegas Metropolitan Police Department (Metro) was neutral on the bill while the Nevada Highway Patrol (NHP), Department of Public Safety (DPS), opposed the bill. She added the technology was new and legislatures throughout the country wanted to take advantage of the technology while protecting their constituents' personal privacy.

Chair Nolan said the Committee would take testimony from any member of the law-enforcement community who wished to testify on the bill. The Chair said he had received a telephone call from a representative of the Association of International Automobile Manufacturers (AIAM). The representative faxed Chair Nolan a letter indicating AIAM's opposition to [A.B. 315](#) ([Exhibit E](#)). He said he thought the proposed amendment contained in [Exhibit C](#) would eliminate AIAM's opposition. The Chair offered Assemblywoman Pierce an opportunity to review the letter.

Chair Nolan asked Assemblywoman Pierce if she knew of an event in which the information stored on an ERD had been used to invade a person's privacy. He wanted to know whether [A.B. 315](#) represented a vehicle by which to prevent attacks on people's privacy. Assemblywoman Pierce stated the bill originated when she read an article on the subject in one of legislative publications she received.

Mr. Alonso stated that it appeared as though the proposed amendment addressed the concerns of the AIAM. He added he agreed with the amendment and thanked Assemblywoman Pierce for her work on the bill and amendment. The Chair directed Mr. Alonso to share the proposed amendment with AIAM.

Robert Roshak, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association, said he supported [A.B. 315](#).

Chair Nolan asked Mr. Roshak whether there had been an instance in which an ERD's data had been used in a non-law-enforcement capacity and, if so, what had been the consequences of that improper use. Mr. Roshak said he was unaware of an ERD being used improperly in a non-law-enforcement capacity. The Accident Investigation Unit (AIU), Metro, would download an ERD's data

and use it to verify the findings of the physical evidence resulting from an accident investigation. The AIU did not rely solely on an ERD's data.

Senator Heck wanted to know whether law enforcement would use the downloaded data to build a case against somebody when an accident had occurred. Mr. Roshak asked whether the Senator was asking about the law enforcement use of the data. Senator Heck told him, "Right." Mr. Roshak replied that the information could not be used on its own, that the data would have to be backed up by physical evidence and the results of an accident reconstruction.

Kate Diehl, Property and Casualty Insurers of America (PCI), said the member companies of the PCI were responsible for more than 51 percent of motor-vehicle premiums issued in Nevada. She said A.B. 315 provided a number of consumer protections which the PCI supported, including the disclosure of an ERD's installation in a vehicle and the access restrictions to an ERD's data.

Ms. Diehl said the bill excluded insurance companies from accessing an ERD's data. Chair Nolan interrupted Ms. Diehl's testimony by telling her it was the Committee's practice to take testimony first from the proponents of a bill and then the opponents. He asked her to allow the proponents to finish their testimony and then she could continue with her testimony. Ms. Diehl agreed to the Chair's request adding she supported the bill's intent, but opposed section 1, subsection 3 of the bill.

Michael D. Geeser, American Automobile Association of Nevada, spoke from prepared text ([Exhibit F](#)).

Senator Carlton asked whether an ERD recorded only what happened inside the vehicle it was installed in and not what happened inside the other vehicles involved in an accident. She wanted to know how the insurance industry could find an ERD's data useful since an ERD's data related only to the vehicle in which it was installed and did not provide data on the other vehicles involved in an accident.

Mr. Geeser said, in Senator Carlton's scenario, there would be difficulty in using an ERD's data to obtain an accurate account of an accident. He added that more than 90 percent of all vehicles in operation in the United States were equipped with ERDs. Mr. Geeser noted that in an accident investigation, half of

the story was better than none of the story and might benefit the accident investigators.

Senator Carlton asked how the insurance companies benefited from knowing all the details of an accident. She stated insurance companies provided insurance and settled claims. Mr. Geeser said an ERD was important when a person was deemed responsible for the accident, but in actuality was not responsible. In that case, an ERD would prove what really happened. He added an ERD's data would not always be used negatively.

Senator Carlton said she had concerns with the insurance industry having access to an ERD's data. She stated she believed that law-enforcement officials should be the ones to decide liability in accidents. The Senator said that the law-enforcement officials could examine the skid marks and other physical evidence at an accident scene which was something an ERD could not do. She added an ERD would not give the insurance industry the complete picture of what transpired in an accident. Senator Carlton reiterated her previous statement concerning law-enforcement officials being the parties who investigated an accident, presented the facts and determined liability, not an ERD.

Ms. Diehl continued her testimony by saying insurance companies were in the business of selling policies at the most competitive prices and rewarded good drivers with lower premiums. She added that the expedient and efficient handling of claims lowered the cost of doing business which allowed the insurance companies to offer lower premiums. An ERD's data could eliminate the question of fault in some accidents.

Ms. Diehl reported on a situation which occurred in Chicago, Illinois. There had been an accident and the victim was a police officer. The driver of the vehicle told investigators that he had a diabetic incident and did not remember the accident. The ERD installed in his vehicle helped investigators answer some of their questions. The data indicated the driver had been doing 62 miles per hour in a 45-miles-per-hour speed zone and had hit the brake one second before he collided with the police officer's vehicle. The data assisted law enforcement in determining the driver was responsible for the accident.

Ms. Diehl stated it was not realistic to expect insurance companies to obtain the permission of a vehicle's owner or a court order to access an ERD's data while

settling a claim. She said an adverse party would not allow an insurance company access to his or her ERD and obtaining a court order necessitated using a lawyer which could delay the loss-settlement process, while increasing settlement costs.

Ms. Diehl stated there could be accidents to which the police did not respond. In those instances, an ERD's data would provide information which would assist the adjustment process and determine fault. That information would allow the appropriate insurance company to pay the claims resulting from the accident.

Ms. Diehl asked the Committee to consider the PCI's amendment to the bill ([Exhibit G](#)) based on the reasons she outlined.

Chair Nolan told Ms. Diehl that the sponsor of the bill was not in favor of [Exhibit G](#) and added he hoped Ms. Diehl had worked with the Assembly Transportation Committee on amending the bill. Ms. Diehl replied "Yes," adding she testified in front of that Committee and requested her amendment be considered by the Assembly Transportation Committee.

Chair Nolan said [Exhibit G](#) would be made part of the record and would be considered when the Committee discussed A.B. 315 at a work session. He added that a bill was generally not amended when its sponsor opposed the bill's amendment. The Chair said Ms. Diehl's proposed amendment would be discussed at a work session.

Chair Nolan said there were two amendments to the bill, [Exhibit D](#) which Assemblywoman Pierce, the automobile dealers and manufacturers agreed to and [Exhibit G](#), which had been submitted by Ms. Diehl and which Assemblywoman Pierce did not support. [Exhibit D](#) would be drafted into amendment form for review by the Committee. Assemblywoman Pierce would be notified when the work session on the bill was scheduled.

Chair Nolan closed the hearing on A.B. 315 and opened the hearing on Assembly Joint Resolution (A.J.R.) 12.

**[ASSEMBLY JOINT RESOLUTION 12](#)**: Urges United States Department of Transportation to take action regarding federal cargo securement regulations. (BDR R-1319)



Assemblyman Pete Goicoechea, Assembly District No. 35, read from prepared text ([Exhibit H](#)), which detailed his support of A.J.R. 12. He noted that bales of hay and straw were unique cargos and should not be subject to the same federal regulations as other large cargos. [Exhibit H](#) also contained letters of support from the Nevada hay industry and the Nevada Hay Committee as well as copies of letters to and from federal officials and other documents of support for A.J.R. 12.

Assemblyman Goicoechea said the resolution supported Nevada's position in requesting either a rule interpretation or a commodity-specific exemption for hay and straw products from the federal government.

Ronald S. Levine, Nevada Motor Transport Association, said the problem the hay haulers had was with the enforcement of federal motor carrier safety regulations. He added that under the regulations it was unsafe for the hay haulers to stack the hay or straw in the manner required by the federal government. Mr. Levine noted that passing the resolution would assist the hay haulers when they petitioned the federal government to change the regulations. Mr. Levine stated he supported A.J.R. 12 as it allowed Nevada's hay haulers to transport their loads in a safe manner and permitted the more uniform hauling of hay and straw in other states.

Taylor Stack, Nevada Hay Industry and the Nevada Hay Committee, said he attended a federal motor carrier meeting in New Mexico during April 2005, which addressed the subject of the new federal regulations for cargo hauling and tie down. Mr. Stack said the meeting officials were happy to have the hay industry represented at the meeting. He added the hay haulers in Canada had been experiencing similar problems with their regulations.

Mr. Stack offered to provide the Committee with minutes from the meeting which would show that federal motor carrier officials decided hay and straw should be trucked on a commodity-specific basis on a federal level. Mr. Stack had been offered assistance and personnel by the federal motor carrier officials in the hopes he would be able to obtain changes in federal regulations.

Mr. Stack said until the federal regulations were changed, the hay haulers in Nevada needed temporary relief.

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SENATOR CARLTON MOVED TO DO PASS A.J.R. 12.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SCHNEIDER AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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Chair Nolan closed the hearing on A.J.R. 12 and opened the work session on A.B. 169.

ASSEMBLY BILL 169 (2nd Reprint): Makes various changes relating to abandoned motor vehicles. (BDR 43-967)

Patrick Guinan, Committee Policy Analyst, told the Committee tab A of the work session document, dated May 10, 2005 (Exhibit I), contained a proposed amendment for the bill. Mr. Guinan explained the amendment for the Committee's benefit, adding the DMV was comfortable with the amendment.

Chair Nolan said the amendment addressed the concerns he had with the bill.

SENATOR HECK MOVE TO AMEND AND DO PASS A.B. 169 USING AMENDMENT IN TAB A, EXHIBIT I.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SCHNEIDER AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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Chair Nolan closed the work session on A.B. 169 and opened the work session on A.B. 255.

ASSEMBLY BILL 255 (1st Reprint): Revises certain provisions relating to taxation of special fuels and dyed special fuels. (BDR 32-1258)

Mr. Guinan explained the amendment to the bill was in tab B, [Exhibit I](#), and had been agreed upon at the Committee's May 3, 2005, meeting. He added the DMV was comfortable with the amendment. Mr. Guinan briefly reviewed the amendment. He said the word "and" had been changed to "or" between section 4, subsections 1 and 2. Section 14 had been added through amendment and allowed the DMV to promulgate regulations requiring the electronic submission of tax returns by special fuel suppliers.

Mr. Guinan noted Senator Carlton suggested the wording for section 14. Section 15 had been added through amendment. The DMV said section 15 cleaned the NRS 373.080 by removing the phrase, "Such amount as will reimburse the Department for the cost to it of rendering the services."

Mr. Guinan said the amendment had been discussed and agreed upon at the Committee's May 3, 2005, meeting. The DMV was comfortable with the amendment as proposed. Mr. Guinan had received no other comments on the amendment.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 255 USING AMENDMENT IN TAB B, [EXHIBIT I](#).

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SCHNEIDER AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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Chair Nolan closed the work session on A.B. 255 and opened the work session on A.B. 416 ([Exhibit I](#)).

**ASSEMBLY BILL 416**: Revises provisions governing Advisory Board on Automotive Affairs. (BDR 43-1264)

Mr. Guinan said A.B. 416 transferred the authority of the Advisory Board on Automotive Affairs (Board) from the Division of Insurance, Department of Business and Industry to the Department of Motor Vehicles. Testimony indicated that the board had been inactive since 1997 even though it was listed in statute.

At the Committee hearing, the testimony centered on the reasons for the Board's inactivity along with discussion on whether or not the membership of the Board should be changed to an odd number of members instead of having an even number of members. No formal amendment for the bill had been proposed.

Chair Nolan said he thought the bill was an attempt to correct a measure which had been poorly implemented.

Senator Carlton stated she had been the one who pointed out the Board's membership should be an odd number instead of an even number. She suggested that instead of having two DMV employees serve on the Board it would be better to have one serve on the Board. The Board would still be represented, but the State would not lose the work of two employees. The Senator added she thought the rest of the bill could stand as written.

Chair Nolan stated Mr. Guinan had been contacted by DMV officials who indicated the DMV would be willing to have one DMV employee serve on the Board. The DMV contact served as a verbal amendment to the bill.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 416 USING AMENDMENT DISCUSSED BY THE COMMITTEE ON MAY 10, 2005.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SCHNEIDER AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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Chair Nolan explained the Office of the Governor wanted to restructure the Transportation Services Authority and the Committee would be hearing testimony on the subject during the week of May 16, 2005.

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There being no further business, the meeting of the Senate Committee on Transportation and Homeland Security was adjourned at 2:29 p.m.

RESPECTFULLY SUBMITTED:

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Lee-Ann Keever,  
Committee Secretary

APPROVED BY:

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Senator Dennis Nolan, Chair

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