

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

**Seventy-Fifth Session
March 19, 2009**

The Committee on Transportation was called to order by Chairman Kelvin Atkinson at 1:38 p.m. on Thursday, March 19, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chairman
Assemblyman Mark A. Manendo, Vice Chair
Assemblyman John C. Carpenter
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblywoman Marilyn Dondero Loop
Assemblyman Pete Goicoechea
Assemblyman Joseph M. Hogan
Assemblyman Ruben J. Kihuen
Assemblywoman Ellen B. Spiegel
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
Darcy Johnson, Committee Counsel
Marlen Schultz, Committee Secretary
Steven Sisneros, Committee Assistant

OTHERS PRESENT:

Marlene Lockhard, President, Capital Strategies, Reno, Nevada, representing the Nevada Collision Industry Association, Henderson, Nevada
Peter Krueger, Reno, Nevada, representing the Nevada Collision Industry Association, Henderson, Nevada
Michael Spears, Chief Financial Officer, Collision Authority, Las Vegas, Nevada
Sam Metz, Private Citizen, Las Vegas, Nevada
John Sande, Attorney, Jones Vargas, representing the Nevada Franchised Auto Dealers Association, Reno, Nevada
Randy Tackett, Service Director, Champion Chevrolet, Reno, Nevada
Jeanette Belz, J. K. Belz and Associates, Reno, Nevada, representing Property Casualty Insurers Association of America, Sacramento, California, and Associated General Contractors, Nevada Chapter, Reno, Nevada
Lisa Foster, Reno, Nevada, representing Allstate Corporation, Phoenix, Arizona
John Haas, Southwest Regional Counsel, Allstate Insurance Company, Phoenix, Arizona
John Wilson, General Manager, for Nevada Medi Car and American Medical Response, Las Vegas, Nevada
Gary Milliken, GEM Consulting, representing Nevada Medi Car, Las Vegas, Nevada
Bruce Arkell, Reno, Nevada, Nevada Senior Corps Association, Carson City, Nevada
Jon L. Sasser, Legal Service Statewide Advocacy Coordinator, Washoe Legal Services, Reno, Nevada
Wayne Frediani, Executive Director, Nevada Franchised Auto Dealers Association, Reno, Nevada
Troy Dillard, Administrator, Division of Compliance Enforcement, Department of Motor Vehicles
Mandi Lindsay, Government Affairs Specialist, Associated General Contractors, Las Vegas, Nevada

Paul Enos, Chief Executive Officer, Nevada Motor Transport Association,
Reno, Nevada
Ann Loring, Lobbyist, Washoe County School District, Reno, Nevada
Frank Adams, Executive Director, Sheriffs' and Chiefs' Association,
Mesquite, Nevada
Chuck Calloway, Sergeant, Las Vegas Metropolitan Police Department,
Las Vegas, Nevada
Bart Mangino, Legislative Representative, Clark County School District,
Carson City, Nevada
Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles

Chairman Atkinson:

[Roll call taken.] There are four bills to be heard today, and we will take them out of order to accommodate one of the people who must catch an early plane. Therefore, we will start with A.B. 297 and ask the individuals to come forward who are presenting the bill.

Assembly Bill 297: Enacts provisions governing tied body shops. (BDR 43-718)

Marlene Lockhard, President, Capital Strategies, Reno, Nevada, representing the Nevada Collision Industry Association, Henderson, Nevada:

I appreciate your consideration in changing your schedule for my afternoon flight. I am here on behalf of A.B. 297 which is a consumer and public safety bill. Assembly Bill 297 is also a jobs bill. The association represents over 80 percent of Nevada auto body shops accounting for more than 1,000 employees. The purpose of this bill is to grandfather in an existing insurance company-owned auto body shop and prohibit insurance companies in the future from also owning auto body shops. The trend for insurance companies to take over smaller, family-owned auto body shops is akin to Wal-Mart coming in and closing down community-based mom-and-pop businesses. Recent figures indicate Sterling Auto Body has over 61 shops in 16 states. This is certainly a trend which is growing nationwide. This practice has been prohibited in the state of Texas, and the bill before you has been modeled after the Texas legislation. It has withstood a recent legal challenge and has been denied from being heard by the United States Supreme Court. So it is in force and practiced today.

It is a jobs bill because it threatens the very existence of Nevada's long history of quality family-owned businesses. Today, we have members of the industry in our audience who have worked in the family-owned business since they were fourteen years old, passing from one generation to another. In 2007 there were over 300 auto body shops in the state of Nevada and there are less than 250 today. In the trying economic times we are in and with the threat of

“big-box” operations threatening their livelihood, small companies are scrambling to stay afloat and exist.

This is a consumer bill because the consumer is the loser. Most consumers have no idea they are being directed to the insurer’s own corporation. They boast of speedy vehicle repair and returning your auto faster, but at what safety costs? There are no checks and balances. This is a classic example of the proverbial fox being in charge of the hen house. Finally, there is no question we could have filled the hearing rooms today, both in Carson City and Las Vegas. I would like to welcome all of the attendees in Las Vegas and tell them how much we appreciate their presence to show you how important this bill is to small businesses in the State of Nevada. Our members have experienced retribution in the past when they attempted to change the status quo. So we do have some brave souls here who plan on testifying for this bill. I would like to take a moment to mention some of the people present: Mr. Michael Spears with the Collision Authority in Las Vegas, Randy Tackett with Champion Chevrolet, and Sam Metz, private citizen with many years of work in the industry. Before they come forward I would like my colleague, Peter Krueger, to explain the provisions of the bill for your benefit, if the Committee Chairman would like.

Chairman Atkinson:

Thank you for your testimony, Ms. Lockhard. Did you want him to cover the bill before we ask questions?

Marlene Lockhard:

At your pleasure, we will do as directed. However, I would also like to note, we have distributed a letter of support from the Society of Collision Repair Specialists ([Exhibit C](#)).

Chairman Atkinson:

Does anyone have any questions for Ms. Lockhard before Mr. Krueger goes over the bill for us?

Assemblywoman Spiegel:

Could you tell me what percentage of collision repairs are covered by insurance versus those not covered by insurance?

Marlene Lockhard:

Our expert witness, Mr. Spears, tells me that approximately 90 percent of the repairs are covered by insurance.

Peter Krueger, Reno, Nevada, representing the Nevada Collision Industry Association, Henderson, Nevada:

I am prepared to review each section of the bill in detail or in an abbreviated form at your discretion.

Chairman Atkinson:

Since we have four bills, it is my opinion the shorter version would be preferable considering our time constraints.

Peter Krueger:

Please direct your attention to section 6 of the bill under definitions, the term in the bill is "favored facility agreements." This bill does not affect the ability of an insurance company to enter into an agreement with an independent shop on terms of that agreement only. This bill has one purpose. It prohibits, after July 1, 2009, any additional insurance companies from purchasing, owning, and operating body shops. This bill does contain a grandfather clause allowing the only existing insurance-owned body shop in the state to continue its operation. Most of the language addresses how the grandfather provision applies, which is the key issue of the bill.

I want to make the Committee aware of an amendment being offered by our group, which we will supply to the members before this hearing is over. It creates a new section stating the act only applies to insurers with an ownership interest in a tied body shop. A tied body shop is the language developed by the Legislative Counsel Bureau to refer to insurance-owned body shops.

Assemblyman Hogan:

What is the implication of an "owned" body shop? Is it owned 51 percent or more, or does it prohibit any percentage of ownership? Where do we draw the line?

Peter Krueger:

The bill is drafted to say any ownership interest. Any ownership is considered onerous and anti-consumer.

Chairman Atkinson:

Did you want to proceed Mr. Krueger, or have you finished?

Peter Krueger:

My testimony is concluded and we will have the amendment for your review in a few more minutes.

Chairman Atkinson:

Does the Committee have any questions for Mr. Krueger?

Assemblyman Goicoechea:

We heard Texas has a law prohibiting tied body shops, but our neighboring states like California, Utah, Idaho, and Arizona do not. We do not want to create a situation where insurance carriers are sending their customers who live in a border community across the state line to an adjacent state.

Peter Krueger:

It may be a concern, but the greatest majority of independent body shops and body shop businesses are in the metropolitan areas. I do not believe there is a way to draft a provision to eliminate a practice such as you described from occurring. In fact, I believe this practice is currently taking place due mainly to the location of the facility relative to a small community. Therefore, it does happen, but I also believe this occurs on a limited basis.

Assemblyman Goicoechea:

Then you do not believe this is a threat?

Peter Krueger:

Someday it could become a threat, but right now we have arrangements with 95 percent of the shops where the business is occurring.

Marlene Lockhard:

I would like to add to the response provided by my colleague. Currently, the statute sets forth the consumer has the ability to direct where his vehicle may be repaired, and there is a condition prohibiting an unreasonable distance to be travelled for services. Therefore, I believe the concerns would be covered under existing provisions.

Assemblyman Manendo:

I want to disclose I work for Collision Authority which is a member of the Nevada Collision Industry Association (NCIA) and one of the partners, Mr. Spears, is at the table preparing to testify. I handle marketing and public relations work for the company. I also am required to visit and speak with NCIA members and non-members alike about various issues related to the auto body business. We want to make sure we are doing the best job we can for customers, regardless of where they decide to have their car repaired.

I did have a question for Ms. Lockhart. You mentioned people have a choice where they want to take their vehicle in this state. Are there currently any

penalties in the existing law for directing or requiring a consumer to use a particular company to have the work completed?

Marlene Lockhard:

No, there is not, which is one of the problems. Consumers are supposed to have the choice where they take their vehicle, but there is no penalty if they are told where the work must be performed.

Chairman Atkinson:

Are there any other questions? Mr. Spears, I see you are sitting at the table, did you have some testimony to present?

Michael Spears, Collision Authority, Las Vegas, Nevada:

I am Vice-Chairman of the Nevada State Automotive Affairs Advisory Board and a past president of the Nevada Collision Industry Association [Read from prepared testimony ([Exhibit D](#))].

Chairman Atkinson:

Do the Committee members have any questions?

Sam Metz, Private Citizen, Las Vegas, Nevada:

I retired from the collision industry after 40 years. I am here in support of the bill being discussed today. There is not a great deal I can add to what Michael Spears has already said, however, I would like to pose this situation to you. The insurance industry is divided into two parts. On one side there is an agent who sells you a policy and makes a profit. On the other end there are the claims people, whose job is to keep as much money as possible. That mix together should tell you having an insurer-owned body shop is not in anyone's best interest.

Chairman Atkinson:

Are there any questions for Mr. Metz from the Committee?

Assemblyman Hogan:

I am not sure which one of the previous witnesses would like to answer this question for me. It is my understanding this legislation would grandfather in ownerships currently existing, and there is no deadline in the legislation. What new limitations are being applied to those tied body shops?

As I read section 18, the insurer can provide support services to a tied body shop of the insured if those services do not directly or indirectly confer a competitive advantage upon the tied body shop. If there is a method to actually carry this provision out, then it would eliminate the potential for abuse. Is there

any provision or thought given to how this claim will be advanced? The referral might be an advantage to the tied body shop.

Peter Krueger:

If this bill were to pass and no facility opened between now and the effective date, then we are talking about one facility. We feel the language is designed to establish criteria that would provide teeth and a limit to permitted activities for the existing facility. These are the rules which must be followed.

Chairman Atkinson:

Does the Committee have any further questions? We have a number of people who have signed in indicating they would like to testify. As you know, we always take the people who are in favor of the bill, then against, and finally neutral. Is there anyone wishing to speak in favor of A.B. 297?

John Sande, Attorney, Jones Vargas, representing the Nevada Franchised Auto Dealers Association, Reno, Nevada:

We are supportive of this bill.

Randy Tackett, Service Director, Champion Chevrolet, Reno, Nevada:

I have a brief statement on A.B. 297. We feel the insurance-owned body shop would create a conflict of interest for the customer as well as the local independently owned body shops. With the insurer-owned body shop arrangement, you will have an inherent risk of illegal customer steering causing an economic impact to the independent body shop due to the loss of income. We have anti-steering laws now but we know it is impossible to police 100 percent of the people 100 percent of the time. The potential to steer business away from the locally owned Nevada body shops to the insurance-owned body shops will always be there. By integrating an insurance company with a body shop, the customer will suffer due to the fundamental and tempting opportunity to steer the customer to an insurer-owned body shop to keep the repair costs as low as possible. In fact, the interest should be for the safety of the customer by making sure their vehicle was repaired properly and not about the cost of the repair but in the end, cost would become the overriding interest. In closing, we believe A.B. 297 is needed to maintain the traditional checks and balances in the industry to protect the customer and ensure the economic playing field for the local independently owned body shops is level and fair. With the passage of A.B. 297, these traditional checks and balances will be preserved.

Chairman Atkinson:

Are there any questions from the Committee members?

Assemblyman Carpenter:

Do you have a repair shop in your operation? If you sell a car to someone, do you try to tell them to bring it back when they wreck it?

Randy Tackett:

We do have a repair facility. We offer a full-service establishment for our customers.

Assemblyman Carpenter:

You do not believe your operation is a conflict of interest? Please explain the arrangement you have.

Randy Tackett:

Under the *Nevada Revised Statutes* the consumer still has the right to take his vehicle anywhere he would like to have it repaired. Our arrangement consists of simply letting the customer know we have a body shop and we can service all their needs.

Assemblyman Manendo:

Obviously your facility probably can handle oil changes, transmission repairs, and warranty-related services. Am I correct in my assumptions? Do you warranty any work involving a collision?

Randy Tackett:

We can perform all the items you mentioned. Manufacturer's warranties do not cover collision damage.

Assemblyman Manendo:

If someone were to purchase a warranty, it would specify the facility and list the items covered or maintenance required to keep the warranty active.

Randy Tackett:

All warranties will specify body damage is not covered under the warranty provisions.

Chairman Atkinson:

Do the members have any other questions? There are none and we thank you for your testimony. Is there anyone else who wants to be heard in favor of A.B. 297? Is there anyone in Carson City who wants to speak on record in opposition to A.B. 297?

Jeanette Belz, J.K. Belz and Associates, Reno, Nevada, representing Property Casualty Insurers Association of America, Sacramento, California:

[Read prepared memorandum from Samuel Sorich, Vice President of Property Casualty Insurers (PCI) of America ([Exhibit E](#)).]

Chairman Atkinson:

Are there any questions from the Committee members?

Assemblyman Manendo:

Do they have signs up at Sterling Autobody Centers stating they are owned by Allstate Insurance Company?

Jeanette Belz:

I would like to refer that question to my colleague, Lisa Foster.

Assemblyman Manendo:

I apologize and will withdraw my question until after Ms. Foster completes her testimony.

Lisa Foster, Reno, Nevada, representing Allstate Corporation, Phoenix, Arizona:

I am going to make a few introductory comments. There is an individual waiting in Las Vegas who also represents Allstate and is able to answer more in-depth questions as well as provide additional testimony. For those of you who were on the Committee last session, you may remember I asked you to defeat similar legislation prohibiting an insurance company from owning an auto repair facility. Allstate has the only insurance-owned facility in this state, Sterling Autobody Centers. It is a thriving, successful business in North Las Vegas. That legislation was defeated in part because it prohibited the development which produces high-quality jobs, benefits their customers, and helps their community.

We are testifying before you again on a similar bill. One that assumes there is some type of problem that needs to be fixed but there really is not. Customer satisfaction at Sterling ranks above the industry average. We are not aware of complaints filed with the state about Sterling Auto Body, the only insurance owned auto body shop. Fortunately, unlike last session, this bill does not require us to terminate the employment of those individuals. On behalf of them, I would like to thank the proponents. However, we do have other difficulties with this bill and Mr. Haas in Las Vegas can describe this further. I do want to point out two documents I have given to the Committee. One is a flyer ([Exhibit F](#)) detailing what the Allstate Corporation has done in the state including paying close to \$11 million in taxes. It talks briefly about their social service contributions. The other is a form ([Exhibit G](#)) issued by Sterling requiring the

patrons' signatures prior to any work being performed on their vehicles. The last numbered item on the form states: "I acknowledge that I had a choice in deciding where to have my vehicle repaired, and I voluntarily chose Sterling Autobody, an affiliate of Allstate Insurance Company, to perform the repairs to my vehicle."

Chairman Atkinson:

Are there any questions from the members for Ms. Foster? There are no questions, so we will move to the gentleman in Las Vegas.

John Haas, Southwest Regional Counsel, Allstate Insurance Company, Phoenix, Arizona:

I want to thank the state for providing this alternative solution to testify via teleconferencing. I would also like to thank the proponent and the Committee for drafting this bill to protect the 28 employees in North Las Vegas who do not need to be involved in this discussion. First, I would like to spend a few minutes talking about Sterling's ownership structure and Allstate's ownership of Sterling.

Allstate's non-insurance holding company had a relationship with Sterling which began in 2000/2001. Sterling was a small company at the time with 40 to 45 repair facilities that were consolidators. Sterling originally approached Allstate with the idea of purchasing them and becoming an affiliate of Allstate. They are, however, their own business. They are not operated by Allstate. They decide how they operate, when to expand or contract, and like all businesses they are required to make a profit. In fact, Sterling is a preferred shop for at least 30 other direct repair programs. Why is Sterling being singled out and treated differently than any other repair organization or shops which have business models encouraging growth and expansion?

Is there an unfair advantage? The North Las Vegas shop handled by Sterling takes care of approximately five percent of all available automobile repairs in the valley. We are unaware of any consumer complaints. Sterling has had 94 percent customer satisfaction compared to 90.1 percent for the Las Vegas valley. Nine out of ten customers using Sterling say they would recommend it to a friend. Sterling guarantees their work for the lifetime ownership of the car. If it is not done right the first time, the vehicle is returned for proper repairs, and those additional costs are taken directly from Sterling's profit margin. There is absolutely no business advantage to making low-cost repairs.

Is there a conflict of interest? Ms. Foster distributed the form demonstrating every Sterling customer signs this statement acknowledging their choice in using this facility to repair their vehicles. We believe consumers should know

they have a choice and we do not have a problem with putting a sign up in the facility notifying customers of this choice as described in the legislation.

Is this the right time or situation to tell a business or businesses not to expend capital resources in your communities? Anytime a business starts up it creates economic opportunity. A typical Sterling shop brings significant economic opportunity into the community. Anywhere from \$500,000 to \$1 million is brought in for the building and construction of a facility. Also between \$300,000 and \$500,000 in retro-fitting the building with the necessary equipment, and after that, \$800,000 to \$1.5 million in capital investment is made in the community. Nineteen to twenty-three well-paid employees work at the facility. The direct repair technicians which are all I-CAR certified make an average of \$70,000 per year including benefits and we hire 13 to 15 of these skilled individuals. Those repairs which are guaranteed by them are backed up by the company with an \$8 billion market cap. The six to eight front office people earn approximately \$65,000 a year including a benefits package.

In the past 24 hours we have asked some of our vendors to tell us what their perception is of the auto repair economy. We heard Sunland was bought, People's GMC was recently purchased, and Metal Masters Collision Center was also just purchased. All of these companies would have an advantage over Sterling by virtue of this bill because Sterling would not be able to purchase any of these shops. All of those mom and pops who might want to realize the American dream and make money on their early investment would not have the opportunity to do so.

What about the capacity for repairs? Bill Hurst Chevrolet, Pat Clarke Pontiac, Hi-Tech Auto, Inc., Family Auto Body, Performance Auto Body, Gerber Collision and Glass, All Cities Auto Body on Main Street, and Maaco Auto Painting and Bodywork have shut down or are in the process of shutting down creating a potential loss of capacity. When there is less capacity, your rates will go up and it will cost more to fix cars. This bill effectively eliminates a very capable competitor from the market place.

What about the unintended consequences? There are consequences to Allstate Insurance Company and the people we use to fix cars. I am speaking about the other 95 percent of the cars in need of repair. All body shops in Allstate's preferred network would be required to have the exact same operating agreement we have with Sterling. This would mean shops in Battle Mountain, Tonopah, Pahrump, Fallon, Reno, and Carson City would be under the same conditions by virtue of this statute. I do not know whether they are all as qualified as Sterling. I do not know whether or not we would have to take shops off our preferred list because of it. I do know Sterling is qualified for a

Class A rating, but we would like to have the flexibility to work with the smaller shops in some of the outlying communities so they might not have to have the same type of qualifications held by Sterling in Las Vegas.

We disagree this creates an advantage for Allstate, and we think this gives other insurance companies a benefit in having an option when they are contracting with their professional shops.

I would like to address the three concepts Ms. Lockhard pointed out. The first was her statement about the consumers not knowing, and I say yes they do. We showed the Committee the paper they sign acknowledging they understand their right to choose a body shop.

Ms. Lockhard asserted there were no checks and balances. Sterling operates the same way with Allstate that every other repair facility must when agreeing to perform work for Allstate. The damage estimators and the re-inspection agents have the same issues with Sterling as they do with any other auto body shop. There is the same tension and the same conflict.

Ms. Lockhard also pointed out in 2007 there were 300 shops and now it is down to 250. This decline is not because of Sterling, and it is not because insurance companies are gobbling up shops. The reason is due to the reduced demand in this economy, and it does not make good economic sense to reduce capacity even more. Finally, 14 of the 61 Sterling shops are in Texas. Therefore, there are only 47 in the other 49 states, and this does not appear to be an overwhelming number taking over the auto body industry. Also, this is not a "big box" operation. It is about 10,000 square feet of space which is comparable to most body shops. For the reasons stated and as previously mentioned by Property Casualty Insurers (PCI), we would urge the Committee not to pass A.B. 297.

Chairman Atkinson:

Are there any questions from the Committee members?

Assemblyman Manendo:

I just accessed *Nevada Revised Statutes* (NRS) 690B.016, which is the prohibition against the recommendation of unlicensed body shops or required patronization of a particular body shop. I mentioned previously the fact there is no penalty for the violation of this statute. Would Allstate be in favor of such a penalty?

John Haas:

Under the proper circumstances we would agree the Division of Insurance should have regulatory authority over the insurance covenant, no matter how they chose to enforce this provision within the appropriate rules and regulations.

Assemblyman Manendo:

I also had a statement I wanted to make to the Committee. Last night I received an email inquiring about doctors being able to use their own laboratories for processing various medical tests. I contacted one of our colleagues, Dr. Hardy, who referred me to NRS 439B.425, which sets forth that it is illegal in the State of Nevada for a doctor to own and refer business to his own lab. I felt it was an interesting correlation between the issue we are discussing and a doctor-owned facility. So I would ask Mr. Haas why he thinks this type of issue is currently addressed by *Nevada Revised Statutes*? Would you care to comment?

John Haas:

I could only respond as far as it concerns the insurance element. I do understand your suggestion. The State of Nevada requires insurance companies to inform the consumer they have the legal right to take their car anywhere they would like to have it repaired. We comply with this provision and respect our customers' rights. There is a big difference between somebody who is angry at their insurance company about their rates increasing because of an accident, and a doctor who just helped his patient by eliminating back pain, knee pains, or shoulder pains by performing surgery. There tends to be a greater trust between patient and doctor.

Chairman Atkinson:

Are there any other questions for Mr. Haas? Does anyone else want to speak in opposition to this bill in Las Vegas? Is there anyone in Carson City who is neutral on A.B. 297? We need a few questions answered before we bring this up for a vote. Therefore, we will take the opportunity before April 10 to talk to the proponents about working out these differences and then return it to the Committee. For now, we will close the hearing on A.B. 297, and we will open the hearing for A.B. 296.

Assembly Bill 296: Revises provisions governing nonprofit carriers of elderly persons or persons with disabilities. (BDR 58-1116)

John Wilson, General Manager, Nevada Medi Car and American Medical Response, Las Vegas, Nevada:

We have been serving Nevada as Nevada Medi Car for more than 25 years, and I am here in support of A.B. 296. We currently serve only Clark County. In

Clark County there are two common carriers and one contract carrier for the non-emergency medical transportation. This is stretcher transportation and wheelchair transportation. There is no medical attendant in the back. Our service is provided for people who are disabled, elderly, and cannot be moved using other vehicles but they do not require an ambulance. The reason we are coming forward to testify is due to a set of interesting circumstances which occurred over the past year. As a common carrier, we publish our weights and transport all individuals who request our service. Everyone is treated equally. We follow all the rules of the Nevada Transportation Authority, Department of Business and Industry (B and I).

Those rules are established to ensure the public enjoys safe and reliable transportation services. We have never had issues in the past with organizations trying to circumvent the Nevada Transportation Authority, Department of B and I rules and regulations. However, in the last year we have had six different entities electing to take a nonprofit status and filing with IRS. They have gone to the Secretary of State who does not regulate this type of transportation service and they have received a business license authorizing them to conduct business as a nonprofit carrier. As a nonprofit carrier they are exempt from the regulations, and have avoided any oversight. The language proposed in A.B. 296 corrects a glaring omission or loophole contributing to the problem we are seeing.

I want to go on the record saying we have no issues with the existing contract carriers or the facilities using the free shuttle exemption or with entities contracting with local or state governments for the purposes of Medicaid transport or the Regional Transportation Commission of Southern Nevada services. What we do have, however, are companies like Life Trans, Stargold Medical Transport Services, Nevada Medical Transport, Inc., Omni Limousine, and JRW Transport Services soliciting our customers and operating as if they were a common carrier, or offering to be a contract carrier. There is no insurance protection, the financial backing is unknown, and there is no verification of their maintenance histories. We are asking you to enact this language to help establish uniform treatment. We are not afraid of competition. We welcome it, but we would appreciate equality and want them to operate on the same level as we have done for the last 25 years. If they want to enter the market, they have the opportunity to do so as a contract carrier, whereby they must publish their rates and tariffs, and publish their insurance to operate as a common carrier.

We do have a friendly amendment ([Exhibit H](#)), and we met with the Silver Rider Group as well as the Nevada Senior Corps Association to target this legislation to communities of 400,000 or more.

Chairman Atkinson:

You want to add a line on page 2, line 38. I will wait until everyone has a copy of the amendment in front of them. Are there any questions for Mr. Wilson?

Mr. Milliken did you want to add anything to his testimony?

Gary Milliken, GEM Consulting, representing Nevada Medi Car, Las Vegas, Nevada:

Not really, Mr. Chairman. I am only here to help Mr. Wilson if he needs me.

Chairman Atkinson:

There are no questions from the Committee members. Therefore, we will move on. Is there anyone in Carson City who wishes to speak in favor of A.B. 296?

Bruce Arkell, Reno, Nevada, representing Nevada Senior Corps Association, Carson City, Nevada:

We offered the amendment to the bill. The way the language was originally worded, it addressed any company that charges and it has to be narrowed down. The Silver Service is in Clark County and they charge for their services. They have fare boxes and make trips all over the rural areas of the county taking people back and forth to Las Vegas, among other places. The bill, as drafted, also covers the entire state, and there are small nonprofits offering services like this. All of them are currently regulated either by a local government or by the state. This language creates an additional regulatory burden which is unnecessary because they are providing adequate service with oversight. The amendment we are proposing contains more than the seven words proposed by Medi Car and will exempt anyone currently covered by an agreement with the local government or limit its scope to Clark County.

Chairman Atkinson:

The testimony you presented is not actually supporting the proposal and should probably have been given during the time reserved for those taking a neutral position.

Is there anyone else in Carson City speaking in favor of this bill without amendments? What about in Las Vegas, is there anyone who wants to speak in favor of A.B. 296? Does anyone wish to speak in opposition? I am comfortable with changing the population cap. Outside of this issue, I understand Mr. Arkell still has a concern?

Bruce Arkell:

The other part of the amendment is directed at any company offering the service or that has contracted with a local government or the state, and is

currently exempted from regulation by the Nevada Transportation Authority, Department of B and I. The intent was to make sure these companies did not need to obtain a certificate from the Nevada Transportation Authority, Department of B and I.

Chairman Atkinson:

Then this is your amendment and you proposed it, am I correct? If this is the case and the amendment is accepted, I do not know why you still have issues with the bill.

Bruce Arkell:

We do not have issues per se, which is why I spoke in favor of the bill as amended. As amended, we support this proposal.

Chairman Atkinson:

Okay, I understand your position, now. Are there any questions from the Committee members? Seeing none, I will close the hearing on A.B. 296 and entertain a motion.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 296.

ASSEMBLYMAN CLABORN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Atkinson:

We have two more bills: Assembly Bill 290 and Assembly Bill 291. A member of our own Committee will be presenting and she has decided to lead off with A.B. 290. Therefore, we will open the hearing on A.B. 290.

**Assembly Bill 290: Makes various changes relating to the sale of used vehicles.
(BDR 43-917)**

Assemblywoman Ellen B. Spiegel, Clark County District No. 21:

I would like to introduce Assembly Bill 290 which is designed to increase consumer protection and instill confidence in the purchase of used cars. This bill incorporates New Mexico's Used Vehicle Lemon Law into Chapter 482 of *Nevada Revised Statutes* (NRS). Later this afternoon, you will hear testimony from industry representatives who will tell you this is too onerous for an industry being hurt financially from the economic pressures. While I sympathize with an industry in distress, I actually believe a bill like this will help their business. Here is why: First, this bill will increase consumer confidence in

buying used cars in Nevada. Speaking from personal experience, I bought my current car, which is used, from a dealer in California. I did this partly because California's consumer laws are much stronger than Nevada's. Second, this bill supports business by enticing consumers to purchase used cars from dealers instead of from private parties. Under existing conditions, consumers have no more protection when they buy a used car from a dealer than when they buy one from a private party, through a newspaper ad, craigslist, eBay, or talking to their neighbor on the street. Yet they pay more when they purchase vehicles from a dealer, according to Kelly Blue Book values. Private party sales are always less than sales from dealers. Since A.B. 290 does not apply to private parties selling cars, this bill will give consumers a bonafide reason to buy their cars from a dealer instead of a private party. On an unrelated note, you may have noticed there is a fiscal note on this bill for \$271,636 which was added by the Department of Motor Vehicles (DMV).

I did want to thank Troy Dillard of the DMV for negotiating an amendment, which we have provided to the Committee. Among other things, it eliminates this fiscal note. Now, with the Chairman's permission, I would like Jon Sasser to explain the bill further, and then we will be able to answer any questions you might like to ask.

Chairman Atkinson:

Thank you, Assemblywoman Spiegel. Is Mr. Sasser prepared to speak? While Mr. Sasser steps forward, I will temporarily turn the meeting over to Vice Chair Manendo.

Jon Sasser, Legal Services Statewide Advocacy Coordinator, Washoe Legal Services, Reno, Nevada:

[Submitted prepared testimony ([Exhibit I](#)), however, stated his presentation would not be word for word.]

I will try to hit the high points contained in that handout, as well as a letter of support from the Deputy Director of the Legal Aid Center of Southern Nevada ([Exhibit J](#)), Dan Wulz, and the amendment referred to by the sponsor, Assemblywoman Spiegel. Both Washoe Legal Services and the Washoe County Senior Law Project represent low income consumers who have problems with the purchase of used cars. We see an average of four of these complaints per week at Washoe Legal Services. These are people who have bought their cars recently and are unsatisfied with the condition of them. Mr. Wulz mentions in his letter that their consumer hotline also receives five or six complaints per month from consumers stating their vehicle broke down within a short time after purchase. In our experience, some of these customers are simply suffering from buyer's remorse but others have very serious complaints. For example, at

Washoe Legal Services within the last few weeks, we had someone who bought a car on Saturday and by Sunday evening the radiator had blown leaving the vehicle completely inoperable. The dealer repossessed it and is trying to get a deficiency judgment for the full value of the contract from the consumer.

I thank Assemblywoman Spiegel for bringing forward A.B. 290. It revisits an old bill, A.B. No. 178 of the 69th Session, introduced by Assemblywoman Barbara Buckley who was a sophomore legislator at the time. She had a bill proposing a 30-day, 1,000-mile warranty on all used vehicles over 75,000 miles. This particular bill went through a series of hearings and four reprints resulting in the law in existence today. We have an express warranty on vehicles over 75,000 miles, but it does not apply unless the dealer has had three unresolved complaints at the DMV. In the entire history of that legislation, there has not been one instance of three unresolved complaints. Not one dealer has had to comply with this law because dealers will make some resolution with the consumer to avoid it appearing on their permanent record.

The proposed legislation goes beyond the first bill by requiring Nevada adopt a version of the New Mexico law which states you cannot waive the law of merchantability. This is a term from the Uniform Commercial Code (UCC) which basically says goods are fit for the ordinary purposes for which such goods are used. In the context of a vehicle, it is fit for the purpose of transportation. It is hardly unreasonable to expect a vehicle to run for 15 days or 500 miles as required in New Mexico.

This proposed bill has a few modifications from the current law. First, it would apply to all vehicles whether under or over 75,000 miles. Second, it would require all vehicles have a minimum warranty of the 15 days and 500 miles. Those provisions in sections 2 and 4, and the implied warranty of merchantability cannot be waived. There are certain disclosures which have to be in the contract in bold print advising the consumer about the non-waiver of warranty. Also, when purchasing a vehicle, the dealer must disclose any defects. If during the warranty period, the consumer discovers a defect, the purchaser must notify the dealer and give the dealer an opportunity to repair it. The cost of the first two repair attempts is born equally by the dealer and the consumer. However, the consumer's share is maxed out at \$25. If after a reasonable opportunity the dealer is unable to repair the vehicle, the consumer can rescind the contract.

There would continue to be mandatory inspections and disclosure of defects by the DMV. The DMV would also be in charge of investigating consumer complaints regarding the law. I would like to address the amendment mentioned. It provides for some technical changes in section 5. Also, it

clarifies the remedy is not exclusive and is intended to supplement existing law. Under NRS Chapter 97, there is a standard form contract adopted by the Division of Financial Institutions (DFI) which is used by both used and new car dealers for all sales of motor vehicles. The amendment proposes to change the statute to have separate standard contracts for used and new cars. If the change is not made, the joint contract would be encumbered with these two provisions which are irrelevant to new vehicle purchases.

Section 11 covers the process DMV uses to handle complaints on used car warranties. Section 13 of the bill would be eliminated through the proposed amendment. Violations of this act would then be covered by the criminal penalties provision in NRS 482.555 and NRS 482.565 like other violations of the chapter.

In conclusion, I would like to mention the amendment offered by the industry destroys or guts the bill. It says if you cannot waive the warranty of merchantability, you can still write an "as is" contract. If you do not execute an "as is" contract, these new requirements would apply, but all the provisions can easily be avoided by putting "as is" clauses in the contract.

The 1997 law has had some success. It has resulted in the requirement of inspections of each vehicle over 75,000 miles, and the DMV has been able to exert pressures on those dealers for not performing inspections and disclosing defects. However, it has not resulted in any warranty beyond "as is" for our used cars in Nevada.

This bill is more comprehensive. It covers all cars regardless of mileage. Of course these are difficult economic times and dealers will claim their profit will be hurt by the bill. It seems to me, A.B. 290 only asks for what is fundamentally fair. The UCC implies the goods sold in our state are merchantable and yet, a simple "as is" overrides a whole section of law. All we ask is for a vehicle to function for 15 days or 500 miles and if it has defects, that they are disclosed. If the car will not operate under the terms specified and cannot be repaired, is it so unfair to nullify the deal? Should consumers be compelled to pay the price for this lemon? Finally, I request your support of A.B. 290.

Vice Chair Manendo:

Ms. Spiegel, have you had an opportunity to review Mr. Sande's amendment?

Assemblywoman Spiegel:

I was handed the amendment during the floor session this morning and I have not had adequate time to look over the proposal.

Vice Chair Manendo:

Does the Committee have any questions? Do you have other proponents of the bill who would like to come forward?

Jon Sasser:

Mr. Wulz's letter is part of the record and I am not sure if you received a letter from Michele Johnson, President and Chief Executive Officer, Consumer Credit Counseling Services of Southern Nevada?

Vice Chair Manendo:

The Chairman is indicating to me that he did not receive any correspondence from Ms. Johnson.

Is there anyone else who wants to speak in favor of A.B. 290? Then we will hear from those individuals who are opposed to this bill.

John Sande, Attorney, Jones Vargas, representing Nevada Franchised Auto Dealers Association, Reno, Nevada:

I also have Wayne Frediani, the Executive Director of the Nevada Franchised Auto Dealers Association with me today who could help explain what is occurring in the industry, and it may prove interesting in light of the fact another bill is coming from the Senate.

We believe this bill violates the intent of the Uniform Commercial Code (UCC). It only applies to used car dealers and not to any other business. We believe if you examine the activities of every business in the state dealing with used items or tangible personal property, including private party sales you will find similar issues. The only thing we have done in this amendment is use the UCC which states there is an implied warranty of merchantability unless it is made clear the used material is being sold "as is." We feel the UCC should be retained without any changes to it.

Vice Chair Manendo:

Are there questions from Committee? I believe Mr. Atkinson would like to query our witness.

Assemblyman Atkinson:

Is your opposition presented without the amendment submitted by the Nevada Franchised Auto Dealers Association or with it included?

John Sande:

No, my opposition is without the amendment. The bill actually provides a process for the consumer and the used car dealer if there is an implied warranty of merchantability. Obviously, it is skewed heavily to one side. For example, it sets a cost of \$25 to the consumer the first time there is a repair. Mr. Frediani pointed out to me there is a minimum hourly fee of \$85 for any type of work performed on a vehicle, if there is not an "as is" contract where the used car dealer makes it clear to the buyer there are no warranties. However, if the provision in our amendment was inserted into the bill, we would not have any problem with the proposed bill.

Assemblyman Atkinson:

I guess I have an issue with your response. I understand why the proponents of the bill are using a cost of \$25. When a vehicle is purchased from a dealership, the proponents do not believe the consumer should be required to pay full price to repair or inspect the problem when it should have been handled prior to selling it. However, you and those you represent are stating the consumer needs to pay the going rate regardless which, in my opinion, goes against the whole purpose of the bill. If we add the language suggested in this amendment, then the bill would be a moot issue.

John Sande:

There are a couple of items which were unclear as submitted by Assemblywoman Spiegel and may need to be adjusted, but there was no disagreement. We were only concerned with what the language meant as stated in section 5 of the bill. A used car dealer will often give a new warranty on a car because he has had the time to inspect and repair it. This would be in a situation where the car had just been received on the lot, and it has a quick turn around period because the customer is anxious to buy it at a lower selling price.

Therefore, we want the option to sell "as is." Since we have not gone through the operating components or taken the engine apart, the customer would take the risk and if there is a problem, he cannot come against the business. We only want to be consistent with third parties and other industries not subject to this.

Assemblyman Atkinson:

If an individual comes in to buy a car, then are they somehow advised by the used car dealer it has not been inspected or worked on?

John Sande:

Yes, they are advised of that and if you look at NRS 104.2316, you will see this law sets forth what is necessary to modify the implied warranty of merchantability, which under Nevada law in the UCC is in every sale of tangible personal property unless it is specifically modified, and it is understood by the purchaser there is not an implied warranty in this circumstance. This is why we put in this language which has been approved by the Uniform Law Committee and also has been adopted by almost all states.

Assemblyman Atkinson:

The members of this Committee and I understand this, however, the average consumer does not. Is there some opportunity for the dealership to share this information with them, and possibly have them sign an acknowledgement?

John Sande:

I think we would be willing to do something along the lines you just suggested.

Assemblyman Carpenter:

Would the repealed section remain or would it be removed in your amendment?

John Sande:

Look at NRS 104.2316 which sets forth the requirements for a modification of the implied warranty of merchantability to take affect. This would define what is required of a seller to make sure a buyer knows there is a waiver of a warranty. The other thing we have taken out in section 6 is a suggestion to include another provision in the contract regarding the implied warranty. The reason it was removed is because we must have our contracts approved to ensure they are within the parameters established by the Division of Financial Institutions (DFI). This division writes the Contracts of Sale and with the number of variations out there it becomes too complex. Therefore, we felt there was no need to have it in the actual contract. We would be willing to have some type of waiver as a separate document which would be signed by the purchaser.

Assemblyman Carpenter:

I do not believe you answered my question. Would the repealed section be removed or would it stay in based upon this amendment?

John Sande:

I do not know what section you are referring to. If you could clarify that for me, I would be more than happy to respond.

Assemblyman Carpenter:

The repealed section is on pages 7 and 8 of the bill.

John Sande:

We have no problem leaving the section requiring a warranty for vehicles with 75,000 to 100,000 miles in the existing law.

Vice Chair Manendo:

Are there any other questions?

Wayne Frediani, Executive Director, Nevada Franchised Auto Dealers Association, Reno, Nevada:

If you are interested in the economic situation, I would be glad to provide the information at this time. I can tell you the industry is probably in the worst shape I have ever seen it in the 21 years I have been representing Nevada dealers across the country whether it be in used or new car sales. We are off approximately 52 percent for the first two months of this year. There was a 30 percent decline in the prior year. It is extremely difficult for the industry from a sales standpoint. Nationally, there are major discussions taking place regarding the soundness of companies like General Motors and the Chrysler Division. Hopefully, within the next 30 days we may have some definitive information on that front. In terms of the overall economy, we have lost five dealerships in the state since last September. I anticipate there may be several others before this market stops falling, but we will have to wait and see what happens nationally. The two biggest issues hurting the industry is lack of consumer confidence in the economy and our inability to obtain financing for the pent-up demand. The customer attempts to get financing for a new or used vehicle but the lenders will not provide the money. The federal government is trying to spur credit and lending by the banks, but it is a slow process and hampering sales across the country as well as in our state. The future is uncertain, and as the second largest producer of sales tax revenue in the state, our industry is eager to see things turn around. I am sure this Legislature would also like to see things improve so that our tax contribution could help with the deficit. Unfortunately I do not see anything happening until sometime in 2010.

Vice Chair Manendo:

Does the Committee have any further questions? Is there anyone else speaking in opposition, or neutral, or with an amendment?

Troy Dillard, Administrator, Division of Compliance Enforcement, Department of Motor Vehicles:

We are neutral on the policy issues within the bill. I believe the sponsor and Mr. Sasser were clear in their presentation about the effects of the bill,

particularly the amendment offered by the sponsor. We would be in support of the amendment which deals with all of our original implementation issues if the Committee favorably moves this legislation. In fact the amendment eliminates the fiscal note.

Vice Chair Manendo:

Which amendment are you talking about?

Troy Dillard:

The amendment offered by the sponsors, Assemblywoman Spiegel and Mr. Sasser.

Vice Chair Manendo:

Okay, are there any questions? Have you had a chance to review John Sande's amendment, and if so, were you able to determine if there was a fiscal note?

Troy Dillard:

I saw the amendment immediately prior to the beginning of the hearing. My understanding is it allows for the contract to state "as is" instead of requiring the warranty. I think it changes it to having an implied warranty unless it is specified the vehicle is being sold "as is" or any other condition as such. In order for our office to determine what kind of fiscal impact would be involved, we would have to guess the percentage of contracts written like this. It is feasible it could reduce the fiscal note in the number of complaints because they would still be "as is" sales and we would be closer to what currently exists today. It also would depend if the 75,000 mile provision was left in the bill, and if so, then the fiscal note would be lessened or eliminated entirely.

Vice Chair Manendo:

Does anyone else want to be on the record for A.B. 290? Then we would like to offer Ms Spiegel and Mr. Sasser an opportunity to briefly address the Committee with closing remarks.

Assemblywoman Spiegel:

I have three points I would like to make. First in answer to a question Mr. Sande raised. I sent the language in question to our legal professionals yesterday and they had two attorneys review it with the opinion it was correct as written. The next point I would like to make is regarding whether this bill should be considered onerous to the used car industry. We are only talking about a reasonable period of 15 days or 500 miles. We are not trying to impose an extended period, and we are not suggesting anything near the warranty conditions of a new car. Finally, I would like to wrap up by telling you another story about Ellen's car woes. This story concerns my old car and when I

bought my previous car, I also purchased an extended warranty giving me coverage up to 65,000 miles. As I neared the 65,000 mile-mark, I had a number of engine problems and I brought the car in. The dealer gave me a new engine, but within a week and certainly less than 500 miles my extended warranty had expired. However, the brand new engine was not working properly and I went back to the dealer. I was told I had a broken engine block and the car was no longer under warranty. At that point, I informed them they had put the new engine in and the only way the engine block could be broken is if the engine was defective and they broke the block during the installation. Basically, we had quite an altercation, but I am a forceful woman and threatened to sue them. As a result, the dealer gave me a third engine even though my car was out of warranty. However, an average consumer who may not have the same kind of fortitude would have been out of luck in a similar matter and responsible for a repair bill costing several thousand dollars.

Jon Sasser:

Mr. Sande said they would like to keep the "as is" option because sometimes when people trade in their cars, the dealer likes to turn them around rapidly and they do not want to break the engine down. First of all, the bill would not apply if you also adopt our amendment because the car is still under manufacturer's warranty. You are required to perform an inspection if the car is over 75,000 miles under current law and disclose any defects which are found. There are very few cases where the vehicle would not be under the dealer's warranty or the right to at least a perfunctory inspection, and the example mentioned above would not apply to most vehicles.

Vice Chair Manendo:

This concludes the remarks. We are going to close the hearing on A.B. 290 and bring it back to Committee. Now we will open the hearing on A.B. 291.

**Assembly Bill 291: Revises provisions relating to motor vehicle registration.
(BDR 43-919)**

Assemblywoman Ellen B. Spiegel, Clark County District No. 21:

Assembly Bill 291 is designed to accomplish one thing. It is designed to get more Nevadans to register their car. Why do I believe this is a problem and why is it important? I am going to show you a clip from one of our local television affiliates in Las Vegas. Also, individuals can access this news story on line by using the following address:

http://www.kvbc.com/Global/category.asp?C=7881&nav=menu107_2_12.

This news presentation is courtesy of KVBC-TV which aired on March 12th and is called *Out of State Plates*. The state says within 30 days of moving to Nevada, it is a requirement to register your vehicle.

It is expensive to register your car here. A \$25,000 2009 Volkswagen was used to compare the difference in fees. Register this car in California and it will cost \$250, however, in Nevada it costs \$471. Still, it is the law to register once you move here, accept a job here, or reside in the state. There are a few exceptions which include out-of-state students, active military, and those living temporarily in Nevada as long as they are not employed here. Between last October and February of 2009, Las Vegas Metro wrote almost 1,000 tickets for failure to register their vehicle within 30 days.

Part of the reason registration costs are higher in Nevada is because we do not have a state income tax, and we obtain our funds from the governmental services tax which is paid when you register your vehicle. The governmental services tax is collected and the money goes to local governments, including schools, and to fund highways, which calculate out to \$4 per \$100 valuation on the vehicle. Six percent goes to the state and the balance goes to the local governments. The motor vehicle registration fee is based on the class and weight, and ranges from \$33 up to \$1300. There is an additional revenue stream we are losing out on because generally when cars are registered out of state, the insurance is also purchased out of state, and as a result we lose another 3 percent from the insurance tax. I have estimated 5 percent of the vehicles are not being registered in our state, creating a loss of approximately \$20 million per year.

This is not a new tax or a new fee. This is a requirement and all Nevadans should be paying their fair share, yet they are not. This bill addresses the revenue shortfalls in two ways. The first corrective measure is to increase the fine for cheaters. If you are cheating and get caught, the fine is currently \$50 but our proposal would raise it to \$1,000. It also has a provision in case the person has a legitimate reason for failing to pay. Some people live here but are not aware they are required to register within 60 days. For example, when a person indicates they moved here three months ago and their registration is due the next month and they had planned to accomplish the change at that time. If they go to court and show the judge proof the vehicle has been registered in the state, then the judge can reduce the fine to \$200. The other provision is it enables constables to enforce the law. This can be done while vehicles are parked. By using constables, more violators will be forced into the registration system and funds owed to us will be collected.

Vice Chair Manendo:

Does the Committee have any questions?

Assemblyman Atkinson:

I do have a question. This is an issue we have tried to address over the past few sessions. By giving the constable more authority, how confident are you this action will provide the necessary enforcement needed to successfully handle the unresolved problem?

Assemblywoman Spiegel:

I have not spoken directly with the constables, but I have spoken with Senator Parks who has an almost identical bill in the Senate. The Senator has been working closely with constables, and they are ready to move forward to enforce the new provisions, should this legislation pass.

Assemblyman Atkinson:

Since apartment complexes have a large spectrum of the population where a significant volume of vehicles can be examined, could we make the manager provide notice to new tenants about the 30-day registration requirement?

Vice Chair Manendo:

I am aware of several homeowners' associations asking for information close to what you are suggesting. They currently ask for the license plate number so the assigned parking spot can be monitored.

Assemblyman Christensen:

There are so many first-time home buyers required to go through lists of disclosures. I believe it would be a simple process to provide this information. It might help collect the appropriate fees and avoid police intervention.

Assemblyman Carpenter:

I believe it is a bigger problem in Elko than it is in Las Vegas because we are in the middle of a booming mining economy. I think the law we passed a few years ago asks employers to inform their newly hired workers about the registration requirement. It might help if the DMV would write a couple of letters reminding the mine managers of their responsibility to advise their employees, as well as the out-of-state contractors of the mandatory Nevada registration fees.

Assemblyman Christensen:

I just received an email from a constituent who is watching us online and he brings up a financial hardship issue. For example, if a person purchased a new car or renewed the registration on his existing car in one state and then moved to Nevada where a new resident is required to pay additional fees to register a vehicle, it becomes a prioritization problem because a substantial amount of money is needed to re-establish oneself in a new place, such as first and last

month's rent, cleaning deposits, and utilities. So, the new resident decides to take his chances rather than pay twice and hope he is not pulled over.

I know when I register in Nevada, it is possible to take the unused portion of the registration fee and apply it to a new car. Is there a way for someone to obtain credit from the state they moved from?

Assemblywoman Spiegel:

Many states will allow a refund depending upon the time remaining on your registration. They will prorate the amount and send a check to the individual who has moved.

Assemblyman Christensen:

I would like to suggest you amend language into this bill requiring a mandatory disclosure to advise people moving to our state to check with the DMV in their previous state to see if there is a credit owing.

Assemblywoman Spiegel:

I would be comfortable adding this provision. I do believe it is a fairly routine procedure but I cannot address how this situation is handled in every state.

Assemblyman Claborn:

I think the DMV will send you a refund if it is under \$100 but if it is over, they will not.

Vice Chair Manendo:

Will Mr. Dillard from DMV come up and help with this discussion?

Troy Dillard, Administrator, Division of Compliance Enforcement, Department of Motor Vehicles:

This is not my area of expertise, however, Nevada typically does not issue refunds for discontinued registrations. There are a few exceptions, but I am not able to elaborate because I am not well versed on the subject. In Nevada, the plates stay with the person, while in some other states the plates stay with the car. So, the registration and plates would be surrendered, and the state issues a credit or refund on the unused portion.

Assemblyman Atkinson:

I do have some information regarding this issue and we checked my facts on the DMV's Website to validate it. In Nevada, a refund is possible under extenuating circumstances for an amount less than \$100.

Assemblyman Manendo:

Is there anybody else who would like to testify on this bill?

Jeanette Belz, J. K. Belz and Associates, Reno, Nevada, representing the Associated General Contractors, Nevada Chapter, Reno, Nevada:

The first reason I am speaking today is we never give up an opportunity to remind you that \$33 of the registration fee goes to the State Highway Fund, and the more vehicles registered in our state means the more monies collected to support roadway maintenance, repair, and construction projects.

Secondly, I am speaking on behalf of the Property Casualty Insurers Association because of my involvement in several conversations with Senator Parks before we knew of Ms. Spiegel's interest or her election. We had met as early as last summer to discuss this issue and how to collect fees from people still using their out-of-state plates. One of my colleagues came up with the idea to give this collection authority to constables. Our rationale was based on the knowledge that police are over-worked and spread thin with their duties, and we needed to find another sector who could zealously take on this responsibility. Obviously, our interest was a logical progression of thinking the more registered vehicles, then the more vehicles needing insurance.

I have been on conference calls with the Property Casualty Insurers Association president regarding this proposal and the constables were in favor of handling the new procedure should the bill pass.

Mandi Lindsay, Government Affairs Specialist, representing the Associated General Contractors, Las Vegas, Nevada:

We are here to support A.B. 291. We would like to commend Assemblywoman Spiegel for this thoughtful piece of legislation. If the bill is approved, we believe this language is good for Nevada and more importantly, for the State Highway Fund.

Paul Enos, Chief Executive Officer, Nevada Motor Transport Association, Reno, Nevada:

I would like to echo the comments made by others testifying before me in support of A.B. 291 because this can collect more monies for the State Highway Fund. If you would permit me, Mr. Vice Chair, I want to address some of Assemblyman Carpenter's concerns regarding trucks. One difference about truck registration as opposed to car registration, is interstate trucks must abide by an agreement called the International Registration Plan (IRP). Those trucks will purchase a license plate in a base state. Therefore, a truck could declare its home base as being in Utah and drive 90 percent of its miles in Nevada. Nevada would actually receive 90 percent of the revenue at the

Nevada registration rate which is a congressionally mandated law. I do not believe there will be a loss of revenue for the state from these trucks. They are audited, both the individual trucker and the company. If the DMV or the Nevada Highway Patrol or the Federal Motor Carrier or the Federal Safety Administration audits the records and finds a problem or a discrepancy, there are substantial fines to pay. There is a greater impetus on the trucking companies for them to follow and comply with the present law than the \$1,000 fine proposed to cars.

Assemblyman Carpenter:

As I understand it though, we would receive 90 percent of the revenue from the state the truck is registered in and not the rate set by Nevada. As you may be aware, Nevada has a fairly high rate. It might be prudent to discuss this with Mr. Roberts at DMV to find out which state is the basis for the rate application.

Paul Enos:

I would be happy to do that.

Ann Loring, Lobbyist, Washoe County School District, Reno, Nevada:

We are here in support of this proposal and appreciate the sponsor's forward thinking in trying to help all constituents who receive the benefits of this tax, especially in these difficult times.

Vice Chair Manendo:

It breaks my heart to see all those out-of-state license plates at the school parking lots dropping off children who are educated through the taxes collected. Maybe the schools could send out a message through their newsletter telling parents every penny not paid to the DMV for registration is cheating your own children.

Are there any questions? Is there anyone else in support of this legislation? Then we will hear those people who want to take a neutral position.

Frank Adams, Executive Director, Sheriffs' and Chiefs' Association, Mesquite, Nevada:

I would like to disclose we do not represent any of the constables. They are not members of our organization and I want to avoid any confusion. We support the idea of this bill, especially the increase in fees. We believe, as Assemblyman Christensen mentioned, a number of people just roll the dice and take their chances on being pulled over and cited for failing to register their vehicle in Nevada. I registered a new vehicle this spring and it cost me \$700. If I knew I would only receive a \$250 fine, maybe I would try to make it through the year without being stopped.

The issue we have with this bill has to do with the constables. Per Chapter 289 of *Nevada Revised Statutes* (NRS), they are not recognized as peace officers except under NRS Chapter 258 where they say they are peace officers in their townships. Also, under NRS 289.470 they are recognized as Category II peace officers only when they are authorized to carry weapons and make arrests as part of their duties. My question to you is: are we going to have constables out there making traffic stops? If you look at the Category II training, they are not trained to initiate traffic stops. They are not trained in emergency vehicle operation. If someone tries to drive away after being stopped, it is unreasonable to expect them to pursue. We have other concerns as well. Constables are a fee-based office. They receive payment for service of papers and eviction notices. What is their incentive to execute the provisions of this proposal? Are they going to be compensated for this service? If an officer makes a stop, the resultant citation goes through the courts and the cities or counties receive the fees. During the last session, the constables came before this body and asked for the right and authority to impound vehicles off public property for which they received a fee of \$50 each. I see there is a bill this year asking to raise the fee from \$50 to \$100. I applaud the constables' willingness to perform this responsibility, but I think there are some training and authority issues which must be addressed. Those are a few of our concerns. However, we agree raising the fine to \$1,000 is a great idea and should encourage people to comply with the registration requirements rather than risk a fine of this magnitude. Our officers who stop a car registered improperly will definitely issue a ticket.

Assemblyman Atkinson:

I am not sure if this is a question so much as a comment. I do not believe the Assemblywoman's bill is presented to create an enforcement issue. This Committee is not asking the constables to drive around and stop people. This is designed for individuals we know are avoiding registering their vehicles. These individuals live in an apartment complex or a neighbor reports a suspected violator, and we have an address to verify the infraction.

Frank Adams:

I believe you are correct in determining the need, but as I read the bill, it does not preclude a constable from attempting to stop a vehicle. It says a driver will surrender the certificate.

Assemblyman Atkinson:

I understand your point but is there a way to help us clarify this bill since it did not use this verbiage?

Frank Adams:

If those constables want to step forward and make sure they have the proper training from the Police Officer's Standard Training (P.O.S.T.) Academy in vehicle stops and emergency vehicle operation, then our organization would find this acceptable.

Assemblyman Atkinson:

You are persisting in using police vehicle stops, and I have already stated this is not the intent. Why not ask the Assemblywoman to work with your organization and the constables to figure out what their jurisdiction may be and what is the actual intent of the proposal.

Frank Adams:

I am not trying to be argumentative, Assemblyman Atkinson. I know the DMV does provide a list to the Nevada Highway Patrol of people who do obtain their driver's licenses in Nevada every month but fail to register their vehicles. If this list is something the constables would like to work from, then I believe that would be a workable idea.

**Chuck Calloway, Sergeant, Las Vegas Metropolitan Police Department,
Las Vegas, Nevada:**

For the sake of brevity, I will acknowledge our Department was the originator of the concerns Mr. Adams voiced.

Assemblyman Claborn:

In Connecticut they have a provision similar to this, but it is for handicapped cars. They cruise the parking lots using a hand-held scanner and read the license plates of handicapped cards into the system. They verify the number against the plates and the computer processes the information. If they are not current or if they are using a marked parking place without the proper authorization, the computer issues the ticket immediately. A system along those lines would work in this circumstance, too. This could be the beginning of a new system of control where we could catch a majority of the offenders.

Frank Adams:

You are absolutely right. Our police volunteers have the authority to write the handicap citation. I think there are some solutions to this issue.

Vice Chair Manendo:

The bill covering this issue was Assembly Bill No. 7 of the 69th Session. Is there anyone else who would like to address this Committee?

Bart Mangino, Legislative Representative, Clark County School District, Carson City, Nevada:

We would like to recognize the fact that the students of Nevada will benefit from this bill and we truly appreciate Assemblywoman Spiegel's efforts on their behalf.

Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles:

I finished speaking with Director Roberts regarding the comments made earlier by Assemblyman Carpenter, and he assured me the trucks would be paying 90 percent of Nevada's rates and not Wyoming's or Utah's.

Assemblyman Goicoechea:

Would you clarify your statement for me, please?

Paul Enos:

It would depend upon how many miles you travel in Nevada. Whatever amount you travel in our state will be paid at the State of Nevada rate. If you drive 10 percent of your miles here, you will pay at this state's rate. There really is no incentive for a carrier to register out of state to circumvent paying the Nevada registration cost.

Assemblyman Goicoechea:

The apportionment is for every mile travelled. Is that right?

Paul Enos:

Yes, one of the reasons why this may happen is many of the other states may not have a sales tax on rolling stock, as we do in Nevada. So they will buy a vehicle in another state and move it into this state after it has been there for six months. Let me guarantee you, those trucks are still paying their fair share to Nevada based on the miles travelled and fuel used. I would enjoy seeing more trucking companies based here, and then you would not be seeing so many of those plates from Wyoming, Montana, Utah, and Idaho. Hopefully, it is something we can encourage through good public policy.

Assemblyman Carpenter:

If there is no advantage, then why are they doing it?

Paul Enos:

I want to apologize to the speaker of the bill for deviating from the purpose of this hearing. They are doing it because their corporation is based there, and they may have untaxed rolling stock, or an easier way for them to manage their fleet. You can rest easy, though, those trucks travelling in Nevada are paying at our rate on the miles travelled both through the International Fuel Tax

Agreement (IFTA) and Regulatory Identifier Number (RIN), the congressionally mandated laws they must follow.

Farrokh Hormazdi:

I wanted to express DMV's support for A.B. 291 and proudly point out we are sharing the information on the people who have not purchased a Nevada registration to allow the local law enforcement to access names. We are doing our part to see these fees are collected and put to the uses designated.

Vice Chair Manendo:

Are there any other witnesses on A.B. 291? We are going to close the hearing on this bill and bring it back to the Committee. Ms. Spiegel will work with interested parties on this bill and report back to the Chairman of this Committee. We have a bill draft request (BDR) introduction. The Vice Chair will entertain a motion.

BDR 43-1124—Makes various changes relating to the repair of motor vehicles.
(Later introduced as [Assembly Bill 482](#).)

ASSEMBLYMAN ATKINSON MOVED TO ACCEPT BDR 43-1124.

ASSEMBLYMAN CLABORN SECONDED THE MOTION.

THE MOTION CARRIED (ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR VOTE).

Vice Chair Manendo:

Is there anything else which needs to come before this Committee? Is there any public comment? This meeting is adjourned [4:07 p.m.].

RESPECTFULLY SUBMITTED:

Marlen Schultz
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: April 2, 2009

Time of Meeting: 1:38 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 297	C	Marlene Lockhard, Representing Collision Industry Association, Reno, Nevada	Letter from the Society of Collision Repair Specialists, Prosser, Washington
A.B. 297	D	Michael Spears, Collision Authority, Las Vegas, Nevada	Prepared Testimony with attachments.
A.B. 297	E	Jeanette Belz, J. K. Belz and Associates Representing Property Casualty Insurers of America, Sacramento, California	Letter from Samuel Sorich, Vice President, Property Casualty Insurers Association of America, Des Plaines, Illinois
A.B. 297	F	Lisa Foster, representing Allstate Corporation, Phoenix, Arizona	Flyer labeled "Allstate in Nevada – 2007."
A.B. 297	G	Lisa Foster, representing Allstate Corporation, Phoenix, Arizona	Form from Sterling Autobody Centers.
A.B. 296	H	John Wilson, General Manager, Nevada Medi Car and American Medical Response	Amendment to A.B. 296.
A.B. 290	I	Jon L. Sasser, Washoe Legal Services Statewide Advocacy Coordinator	Prepared Testimony
A.B. 290	J	Jon L. Sasser, Washoe Legal Services Statewide Advocacy Coordinator	Letter of Support, Dan Wulz, Legal Aid Center of Southern Nevada