

**MINUTES OF THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND
TRANSPORTATION**

**Seventy-fifth Session
February 18, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:12 a.m. on Wednesday, February 18, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Maggie Carlton, Vice Chair
Senator John J. Lee
Senator Shirley A. Breeden
Senator Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

GUEST LEGISLATORS PRESENT:

Senator Bob Coffin, Clark County Senatorial District No. 10

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Laura Adler, Committee Secretary

OTHERS PRESENT:

David F. Kallas, Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.
Rusty McAllister, President, Professional Fire Fighters of Nevada
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association

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Tony Almaraz, Major, Deputy Chief, Nevada Highway Patrol, Department of Public Safety

Larry Matheis, Executive Director, Nevada State Medical Association

Michael Geeser, Media/Government Relations, California State Automobile Association; AAA Nevada

Erin Breen, Director, Safe Community Partnership, Transportation Research Center, University of Nevada, Las Vegas

Kevin Honea, Nevada Highway Patrol, Department of Public Safety

Robert Compan, Farmers Insurance Group

Fred L. Hillerby, Verizon Wireless

Richard Daly, Business Manager, Laborers International Union of North America Local 169

Jack Jeffrey, Laborers International Union of North America Local 872

Jeanette K. Belz, M.B.A., AGV, Nevada Chapter

Constance J. Brooks, Senior Management Analyst, Office of the County Manager, Clark County

Brian O'Callaghan, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department

CHAIR SCHNEIDER:

We will open the hearing on Senate Bill (S.B.) 136.

[SENATE BILL 136](#): Prohibits certain persons from using a telephonic device to write, send or read a text-based communication while operating a motor vehicle. (BDR 43-776)

SENATOR SHIRLEY A. BREEDEN (Clark County Senatorial District No. 5):

I will read my testimony ([Exhibit C](#)).

This bill was modeled after the California Senate Bill 28 which was implemented January 1, 2009.

I have a market study on statistics of text messaging users ([Exhibit D](#)). It shows we do need to bring awareness, education and consequences to those who are not paying full attention to their driving.

I also have an article by the American Medical Association ([Exhibit E](#)) supporting laws against text messaging while driving.

My last handout ([Exhibit F](#)) is a cartoon depicting a driver multitasking while driving. The caption reads, "Traffic deaths at a 15-year high? ... I've gotta e-mail this story ASAP."

SENATOR CARLTON:

I would like it on the record that the sponsor of the bill uses the term "driving" and the bill says, "operating a motor vehicle." I was told the definition of operating a motor vehicle would include waiting at a stop sign or in a traffic jam.

SENATOR BREEDEN:

That is correct.

DAVID F. KALLAS (Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.):

We are in support of S.B. 136. Those of us who are first responders to traffic accidents know how easily distracted drivers are these days. If we can save one officer from having to go to an accident where someone has died because someone was not paying attention to their driving, this bill will help.

SENATOR TOWNSEND:

Do the current statutes not allow law enforcement to pull over and ticket someone who is driving in an inattentive, distracted manner or inappropriately for the conditions?

MR. KALLAS:

I cannot speak to the State law encompassing all areas as to inattention while driving. If someone is distracted, they can be cited. Whether it is a dog in the lap, talking on the phone, reading a newspaper, wrapping a package or anything else, the driver can be cited. The point of this legislation is to let the public know they are prohibited from inattentive driving.

Most people think driving with a dog in their lap is okay, when, in reality, it is a distraction to driving. This bill is intended to educate the public to recognize that technology is great, but use it appropriately; do not use it in your cars. If we can help educate people about distractions, and we do not have to respond to accidents, then it is beneficial.

SENATOR TOWNSEND:

I do not disagree. However, if you or your colleagues want to never have to go to one more serious accident, then why not address that issue. Perhaps, we could provide more teeth to law enforcement on the generic side and allow the judgment to occur with the officer who is observing the behavior. I am not condoning talking on the cell phone. This bill has singled out one type of inappropriate behavior in a vehicle.

The newer cars present many alternatives to technology inside the vehicle, from satellite-aided communication in case of emergency, to finding a restaurant, to a hands-free phone already installed in the vehicle, to recording a compact disc, all while driving. All these devices have the potential of being serious distractions, as would a hand-held cell phone that this bill references.

Would we not be better off focusing on the bigger picture of distractions while driving? Educate the public, and give law enforcement more flexibility instead of narrowing it to one thing. This would solve the bigger problem. This could be applied to anyone 18 years old and younger and solve 90 percent of the problem. The bill helps identify this as a bigger problem, and we want to help law enforcement to be able to do their job, but we cannot ask them to do something that is so narrow. It does not address the major problem of inattentive driving of which this is only one symptom of an underlying cause.

MR. KALLAS:

I would not disagree with that assessment. An amendment could be proposed that would give Statewide authority for law enforcement to address inattentive driving. But like anything else from a law enforcement perspective, we can only be so proactive in what we do in any given day. We look to the Legislature to provide us with those additional deterrents to keep people from doing things they otherwise would not believe are wrong. This legislation is part of that deterrent. It would help us do a job that we cannot do on our own, because there are not enough of us to stop every single distracted driver. If this can keep one person from being distracted, one person from getting in an accident, one person from causing a death or injury to someone's family, friend or property, then it is worthwhile.

SENATOR TOWNSEND:

Are you able to measure the plethora throughout our State of what are commonly known as drive-thru espresso or coffee places? The morning

commute is full of drivers distracted by looking for the cup holder, by trying to bring the cup to their lips, by blowing on the hot liquid and so on. Is that worse or better than someone taking a phone call or attempting to read a text message? We do understand that shaving, combing hair, eating or applying makeup are distractions.

The effort through this bill is good, but it is not wide enough. I do not want to hamstring law enforcement's ability to assess a situation and determine it is unsafe. It could be hard to prove inattentive driving when the driver says they were not text messaging even though the cell phone is on their lap. This may not be provable in court. It may have to be done on a more generic level so once the officer makes the decision that the driving is inappropriate and inattentive, then the burden shifts to the driver to prove that it was not. If it is narrowed to what is in this bill, then all the driver has to do is ask if there is a picture of him texting. If not, he was not texting.

MR. KALLAS:

If this were more global to encompass things like combing hair, wrapping packages or handling dogs in laps, that might keep people from getting into accidents. It is going to benefit the community to allow us to do those things we should be doing, such as handling not-so-preventable crimes. We cannot dismiss legislation like this that at least gets us started in the right direction.

As an example, I was southbound on U.S. 95 from Jones Street a few weeks ago. I watched a car weave between the outside and middle lanes. Traffic around Valley View was backed up and slowing things down, so I could pull alongside of a young female driver. She had both of her knees on the bottom of the steering wheel, and both hands on the top of the steering wheel as she was texting while driving 65 miles per hour. Thank goodness she was able to see the traffic in front of her slow down, or she would have been in somebody's back seat. If this legislation or any proposed legislation can keep us from having people like that on the road, then it is beneficial. That is the way law enforcement looks at it. There may be lots of other things that could be done, but this is another tool to help us protect people, sometimes from themselves.

SENATOR TOWNSEND:

There are multiple ways we can help to define using the term "not limited to," to give to law enforcement. I am not saying I do not want this bill to go forward, what I want is the bigger picture. There may be some amendments

necessary to stipulate these behaviors are not limited to those things an officer finds as inattentive and unsafe for the current driving conditions. Perhaps we can find a way to enhance this bill.

Perhaps it should apply to those drivers under the age of 25 or 21 or 18 where those penalties would be more significant, so they understand it is a serious situation. Maybe that penalty should be enhanced for that younger group who are more accident-prone to start with, even if they are paying attention. When a young person is in an auto accident, it touches all of us.

I recommend to the Committee to talk to the sponsor about broadening this bill to be more inclusive about those who are not paying attention.

Recently, a person asked me why I go 50 miles per hour in Washoe Valley. I said it was because that is the posted speed limit in that area. It seemed the question was, do I not want to get to work sooner? It was a bizarre question that shows how society is sometimes dismissive of the reason that we put these rules in place is for their safety.

MR. KALLAS:

I would agree with that. I would defer to the bill's sponsor to broaden it. From a law enforcement perspective, I agree with driving ages and potential percentages for younger drivers to have accidents with text messaging and inattentive driving.

SENATOR TOWNSEND:

Whatever the Chair and sponsor want to do is fine. I look at it as an opportunity to address a bigger problem law enforcement faces every day.

RUSTY MCALLISTER (President, Professional Fire Fighters of Nevada):

We have to respond to accidents. We are the ones picking people up off the side of the road. All times of the day or night, there is nothing worse than going to a car accident on the freeway and dealing with extreme injuries, especially when it is young people. Anything that can be done, or any legislation that can be passed to reduce those types of accidents, would be beneficial. We support S.B. 136.

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):
Senator Townsend covered much of what I wanted to say about the bill. I agree with him. It is a great idea, a great concept in regard to distracted driving. However, I am not sure it is enforceable. Distracted driving is a major problem, and it is not just texting. Distracted driving is recognized by the National Highway Traffic Safety Administration, the Nevada Highway Safety Plan and by a number of law enforcement agencies.

We are proposing an amendment ([Exhibit G](#)) that replaces language in the bill to give us broader authority to apply the law at a State level when we see distracted driving. I know the American Automobile Association (AAA) and some insurance companies have developed a program to educate the public that using a cell phone or any other electronic device in a vehicle can distract their attention from driving. Educating the public and enforcement to reduce distractions while driving would be a positive step.

We know from experience that when the mind is focused on something other than driving we lose peripheral vision.

It would be difficult to prove the element of that crime. We would have to get a record of that texting message which would require a search warrant. Since this would be a minor traffic violation, in practicality, a search warrant would not happen. We do support the concept of S.B. 136. I did submit the idea of an amendment.

CHAIR SCHNEIDER:

If it were a serious or tragic accident and texting was suspected, would law enforcement get a warrant then?

MR. ADAMS:

That is correct. Often times, in major accidents there are violations other than distracted driving that would come into play. In a felony situation involving a death or major injury, the effort would be made to secure all information.

I watched a woman driver with a cell phone in one hand, a 32-ounce drink in the other hand and a cigarette between her fingers while driving with her knees. If I pull that person over, I should be able to ticket that person for not paying full-time attention to her driving. We can do that at some county and city levels

with ordinances. Since it is difficult to do at a State level, we need the proposed amendment.

SENATOR CEGAVSKE:

The language talks about operating a vehicle. If I pull over to the side of the road with the motor running, and I am texting or making a phone call, then am I still operating a vehicle with it running?

TONY ALMARAZ (Major, Deputy Chief, Nevada Highway Patrol, Department of Public Safety):

It is a difficult question to answer. What we are referring to in the driving under the influence (DUI) world is actual physical control of the motor vehicle. If that is the case, then your scenario would encompass what you are talking about. In my experience, I have come across people I thought may have a disabled vehicle, but they were talking or texting. That is their responsibility to pull over. We interpret someone operating a motor vehicle under that scenario as being in physical control of that vehicle.

SENATOR CEGAVSKE:

I am concerned when someone is pulled off to the side of the road, it would be an opportunity to say it is in the law that you are operating a vehicle as well as texting or doing something else. That could be an opportunity for a police officer to look for something. What is the difference between operating and driving? I would say the intent of the bill pertains to a person driving. However, if the motor is on, then you are operating a vehicle.

MR. KALLAS:

In the language of the amendment it says, "upon a highway." If you are driving on a highway or stopped at a light or sign, that is where this would apply. If you are off the highway, I would not see this applied. "On the highway" means the roadway where you are driving.

SENATOR CEGAVSKE:

If you are on main streets, or is a highway considered any roadway, or would it be better to say roadway?

MR. KALLAS:

That language was used because it is in one of the local ordinances. Another ordinance says a roadway or highway. That may be something to consider.

Anytime you are on a thoroughfare designated by government, that would be considered a roadway or highway. I left that to the bill drafter. The intent is if you are on a roadway or highway, this would apply. If you are pulled off that roadway, then that is what we want you to do.

CHAIR SCHNEIDER:

If a person did pull over onto the shoulder, is that still the highway?

MR. ALMARAZ:

The term used in those particular scenarios is the highway right-of-way; it encompasses that particular area. We would enforce anything under the definition accessible to the public. Falling under that scenario would include the definition of a roadway, within a highway right-of-way, something the public has access to. You could pull into a 7-Eleven store parking lot and that would be a private area, a private drive. There are certain restrictions we have when we enforce particular laws in those conditions.

CHAIR SCHNEIDER:

If you are driving on U.S. 395, pulled over and stopped to send a text message, would that still be an offense?

MR. ALMARAZ:

We need to get back to the original question about driving or operating. The Nevada Highway Patrol looks at this as driving a motor vehicle. If you look at definitions for operating a motor vehicle, then it is physical control of a vehicle. Laws stipulate that unless it is an emergency situation, you should not pull over on the side of a highway. There are other arteries this tends to go into, but it can get complicated.

As Senator Townsend was saying, our position is that we support the safety mechanism behind it. It is difficult to enforce something like this if we do not have any tangible data. We have laws that support things like this. Nevada Revised Statute (NRS) 484.363 covers "due care." It requires the driver of a motor vehicle to be attentive at all times and decrease speed as appropriate. Those are the typical violations that we use under those kinds of conditions. Otherwise, I agree with Mr. Adams that we would support anything that enhances the safety of drivers, both young and old, to decrease traffic accidents.

SENATOR TOWNSEND:

Your amendment better articulates and gives specific direction to my intent. As we work through this bill, would you consider adding, "this would include but not limited to ...," then add a laundry list of things? This takes us back to Mr. Kallas's point which is to educate the public. We can include all the different things relating to inattentive driving as "not limited to ...", and not put them as mandates. Then law enforcement has flexibility, and the burden is put on the driver about being inattentive. From a statutory construction point of view, I am trying to figure out how best to encompass these things to help law enforcement when in the field.

MR. KALLAS:

We realize distracted driving is a major problem causing accidents, injuries and deaths. We will work further on this language.

SENATOR CARLTON:

I am referencing Senate Standing Rule 23, because the Department of Public Safety is testifying.

The Click it or Ticket program is successful because many people think using a seat belt is a primary law, which it is not in this State. This successful program would be a good model to increase public awareness of the hazards of distractions while driving. Is there such a campaign already in use?

MR. KALLAS:

I have already spoken with Traci Pearl of the Department of Public Safety, Office of Traffic Safety, and with Michael Geeser, California State Automobile Association, and AAA Nevada. The plans for this year are to start emphasizing the distracted driver in a public education program. Public awareness is a key element in any safety program.

MR. ALMARAZ:

We have three commands within the State under the highway patrol, and all have public relations officers who speak to this problem. Chuck Allen is an icon within our command who works diligently with schools to educate young drivers about the dangers of not using seat belts, distracted driving, cell phone use and texting. Cell phones and texting are two big problems among teenagers. We do our part as much as we can to educate the public and drivers.

LARRY MATHEIS (Executive Director, Nevada State Medical Association):
From a public health perspective, this has been a growing concern. There is a growing body of studies that indicate cell phone usage and texting with cell phones are approaching levels of distraction that cause accidents and injuries more than alcohol use. That is alarming information. The advantage of having statutory prohibition on it elevates the issue, especially for generations that now view the mobile phone as an appendage. We need to brutally focus on the risks associated with that use. This is why we support S.B. 136.

MICHAEL GEESER (Media/Government Relations, California State Automobile Association; AAA Nevada):

We support the bill, Senator Townsend's ideas and Mr. Adam's amendment to the bill. The bottom line is we support any move within the State to fight distracted driving. This is something AAA has taken seriously for a long time. Our focus is now on distracted driving and teen driving.

We took a couple of surveys in 2008 of nationwide AAA members. We also found that anywhere from 14 percent to 17 percent of the respondents admitted to texting while driving. Perhaps the bigger number from the survey was that nearly half of all teen respondents said they texted while driving. Clearly, this is an issue we need to fight and add to all the other distractions to make drivers as safe as possible.

With Senator Breeden's permission, I submitted an amendment ([Exhibit H](#)) to add roadside assistance personnel. Sometimes, a key component in getting an accident cleared to get traffic moving again is how quickly tow truck drivers can get to the scene while continuing their communications. For that reason we would like to add roadside personnel so they can still use the units in their vehicles to move traffic along.

SENATOR CEGAVSKE:

I seem to remember another issue concerning roadside service. Are you proposing an amendment that would help offset that issue? I am concerned, after hearing the highway patrol say people are not encouraged to pull over to text or make a phone call. Where is a safe place? Would you elaborate on your vehicles as well as on how and what we would tell people to do? Also, were there any recommendations from the insurance industry?

MR. GEESER:

There is a question on whether there is another move to include tow trucks as emergency vehicles within the State. Senator Nolan was part of the conversation and is working on the solution this Session. Currently, in Nevada, tow trucks are not considered emergency vehicles. So when listing emergency vehicles in a bill, it is not including our business. That is why this amendment has to be put forward so roadside assistance personnel would be exempt from the bill. If, on the other hand, we were able to consider tow trucks as emergency vehicles, this amendment would not be needed.

SENATOR CEGAVSKE:

I did want that clarification. I knew with that one amendment, if you are with the emergency-vehicles category, you do not need the amendment. Since you are working with Senator Nolan, maybe we would not need it.

MR. GEESER:

I will speak about the safest place to pull over; AAA's policy has long been to tell their members not to conduct a cell phone call or a text messaging conversation unless you pull over to a safe place. The question then becomes, why is that a safe place? I offer that the side of a highway is not a safe place. A safer thing is to pull off a highway onto a roadway, or better yet, a parking lot where your car is not moving before conducting any conversation. Perhaps we can all work together to determine where these safe places are located to conduct these conversations.

SENATOR CEGAVSKE:

Do you advocate talking with the hands-free set, or do you promote no talking whatsoever on cell phones while driving because of the distraction?

MR. GEESER:

AAA's policy has long been that you should not talk on a cell phone, period, whether it is hands-free or not, unless you are in a safe place. Banning cell phones completely from the car is not exactly practical because you then have to carry them in a different way. We have never advocated for that. When it comes to conducting a conversation, the long-time policy has been to pull over to a safe place to conduct a conversation.

SENATOR CEGAVSKE:

We need to define what is a safe place. That is my concern.

SENATOR NOLAN:

In response to Senator Cegavske's question regarding tow-truck operators and roadside assistance, we will discuss that later. Last Session we had a discussion about cleaning up accidents more quickly to relieve congestion and to keep traffic flowing rather than adding more traffic lanes. In the Interim, a committee was formed creating traffic-incident management teams, and we will talk about that later. There is a bill coming forward to get tow trucks into major accidents quicker by giving them status. Not necessarily emergency vehicle status, but asking people to move out of their way so they can get to a major accident. We will also talk about that later.

Regarding this bill, I signed on as a cosponsor primarily because of my background in traffic safety. I have seen a number of accidents where the buses of a company I represented nationwide were involved in accidents with distracted drivers. The most disturbing case of somebody being distracted by using a cell phone was not even in a car. It points out how easy it is to have a cell phone and be completely oblivious to your surroundings.

A lot of it has not only to do with the physical characteristic of holding something to the side of your head that obstructs your view to a certain degree, but it also limits your ability to physically maneuver your head to even look in the rearview mirror while you are talking on a cell phone. All of us engage in conversations in vehicles with other occupants and still operate a vehicle safely. An F-16 pilot once told me he can talk to 15 other pilots in a combat theater and operate 16 different buttons while flying at Mach 3, and do it safely when trained to do it right. Conversation is fine, and I know AAA's position about no conversation at all. But with regard to physically holding a cell phone to your head, there is a problem.

In the case I was citing, it happened in front of the Las Vegas City Hall where a woman, by witnesses' accounts, was having a violent discussion with someone on a phone. As the bus pulled out to make a right-hand turn, pulling out a lane ahead because of the way the wheels track, she stepped off the curb while still talking on the phone, completely oblivious. Her foot caught under the back wheel of the bus. The wheel tracked over her and crushed her. This was all caught on the city hall's cameras. This takes to heart how distracted people can

become. It is not just a matter of holding a conversation; it is also a matter of physically holding a phone to the side of your head.

In regard to where you can pull off, as long as we can enumerate that texting and operating a phone other than hands-free is one of the distractions to specifically include in the proposed amendments, I am fine with that. As for pulling off the road to text or call, there are plenty of officers and paramedics who will tell you about the many times they have responded to accidents; people pulled over to the side of the road to take care of something and were rear-ended.

CHAIR SCHNEIDER:

Mr. Geeser, since you were the first one to come forward with a written amendment, I want to let you know that "roadside assistance personnel" is not a clarified legal term. The other problem is intent. What staff needs to see at the bottom is the intent of the amendment.

MR. GEESER:

Would you like me to rework the amendment?

CHAIR SCHNEIDER:

Yes, and work with the sponsor of the bill.

ERIN BREEN (Director, Safe Community Partnership, Transportation Research Center, University of Nevada, Las Vegas):

I have supplied my presentation in support of S.B. 136 ([Exhibit I](#)).

KEVIN HONEA (Nevada Highway Patrol, Department of Public Safety):

Like the rest of law enforcement, we are in support of S.B. 136. I would like to add that there is no State law specifically citing driver inattention. There are several county ordinances. Major Almaraz mentioned a due-care statute, and that is a crash violation. It is your responsibility as a driver to decrease speed for certain conditions, including traffic congestion, weather and things of that nature. There are laws by which I can initiate a traffic stop if I see a global positioning system (GPS) screen in use, but there is nothing on the State level that addresses texting while driving. As already alluded to, cell phones and text messaging cannot be split.

The latest survey I saw was done by Zogby International. They polled 25,000 people from coast to coast between the ages of 18 and 24. Ninety-three percent admitted to sending or receiving cell phone messages on a regular basis while they drive. That was alarming, but what terrified me was that 67 percent admitted to sending or receiving text messages while driving.

The words, distracted driving, came up several times. We have taught about distracted driving and its perils for years. It does not carry enough weight. What we started doing is to teach about being under the influence of using a cell phone, under the influence of texting and under the influence of friends simply because the top 13 indicators we are trained to look for during a "vehicle in motion" portion of a DUI stop are exactly the same whether talking on a cell phone, sending a text message or drunk. That driver is showing the exact same driving characteristics as somebody under the influence of alcohol.

We do have campaigns in place and actively go out to address those issues. In Las Vegas, we have a program called Pace Yourself. It is a teenage driving and informational campaign. From that campaign, came a bus stop shelter campaign along with flyers and refrigerator magnets, that say "stop driving while intoxicated." It has been well received and is being looked at nationally for recognition. There are around 38 high schools in the Las Vegas area, and we talk to 500 to 1,000 students every week. As said before, we see text messaging as this generation's DUI.

One thing that never came up in the previous discussion is officer discretion. If someone is actively involved in a text-message conversation, and pulled over to the side of the road, I will come up to them to make sure they do not need assistance. If a person has chosen to get out of 65 or 75 miles-an-hour traffic to carry on a conversation, I do not know of any law enforcement officer who would write that person a citation because the driver chose to do the safe thing by getting out of the flow of traffic.

ROBERT COMPAN (Farmers Insurance Group):

I have a 22-year-old daughter who has been in 3 accidents as a result of texting while driving, and I finally took her car away. She then bought her own car and insurance and got in another accident as a result of texting. One of these days she will learn.

Farmers Insurance has a program that trains driver's education teachers, but we cannot get to all the high schools in Nevada. If you talk to teens about driving while texting for which there is a punitive law, you will have more respect from most students. When this becomes law, it should be put in safety books and the Department of Motor Vehicles should be involved. The driver's licensing test does not have any telecommunications questions about equipment in a vehicle.

I am a member of the Nevada Insurance Council. We are an educational arm of the insurance industry, and if this becomes law, we would help to get the word out.

FRED L. HILLERBY (Verizon Wireless):

To me, it seems common sense that you would not mix texting and driving. Most new cars come with at least some of these technology communication features. It could be difficult and a challenge for law enforcement, but we have to make the right efforts. We support S.B. 136.

CHAIR SCHNEIDER:

Is there anyone else who would like to testify on this bill? Seeing none, I will close the hearing on S.B. 136.

Senator Breeden, with the amendments and interested parties, I turn this over to a subcommittee of one, with you as chair, to work out the various issues. We need to make a statement on this subject. California has already passed a law on texting. They have 36 million or 37 million people, and somehow their law enforcement is working with it.

I will now open the hearing on S.B. 134.

SENATE BILL 134: Revises provisions concerning the increased penalty imposed for certain traffic violations occurring in work zones. (BDR 43-180)

SENATOR BOB COFFIN (Clark County Senatorial District No. 10):

This is a commonsense bill that came out of my witnessing a trooper giving a ticket south of Las Vegas in one of the construction zones. I wondered why we were penalizing people twice the amount even though there were no workers present on that Sunday. The construction area was in the median, leaving the two traffic lanes clear. I wondered why we were penalizing so much when we post safer speed limits in any construction zone. Originally, we had double the

fine in a construction zone when workers were present; somehow that disappeared. I do not know if it happened through legislation or at the county level. This is a consumer-friendly bill and not anti-worker. We do want to maintain the current safety practices when people are working in a construction zone. The penalties for a ticket like this when the administrative assessment is stacked on top becomes a large ticket to pay for what could have been an innocuous citation. If we return to the commonsense purpose of the original double penalty in construction zones, it would make the public happier while not endangering anybody. Construction zones can post reasonable speed limits, and tickets should be issued if drivers exceed those posted limits.

Clark County indicated they could support this bill with additional work. I was also made aware of construction zones where they do not have the authority to post a double penalty when workers are present.

SENATOR TOWNSEND:

Some construction is minimal with cones only. Some construction zones are serpentine, requiring very low speeds, even wait times. Do you know of a concerted effort between local governments, construction companies and law enforcement to determine the speed level in construction zones based on traffic flow?

SENATOR COFFIN:

Every construction site is different and requires its own limitations for safe travel. I would like to hear what others have to say. School zones are a critical part of safety for children. In order to keep traffic flowing, most Clark County school zones have a children-present speed limit and a higher speed limit when children are not present. So far, that arrangement seems to be working well. That is the kind of common sense I have applied to this bill.

SENATOR LEE:

Another thing I have observed is that contractors do not remove their signs from a completed construction zone in a timely manner. I would like to incorporate something in this bill that would make subcontractors equally responsible for cleaning up roads, removing barricades and signs faster after construction is completed. If that is something you would consider, Senator Coffin, I would like to discuss it with you.

SENATOR COFFIN:

Any improvement to the bill is fine with me. But just like a good doctor, try not to do any harm.

RICHARD DALY (Business Manager, Laborers International Union of North America Local 169):

We would be willing to work with Senator Coffin on any clarification to S.B. 134. We are opposed to reducing the double penalty. We agree it should not be imposed when there are no workers present.

There seems to be confusion among municipalities, cities and rapid transit centers on whether the term highway also includes surface roads. Several things need to happen. Double-penalty signs have to be put up, workers have to be in the work zone and law enforcement has to check the work-zone box.

When the first bill was passed, we made the effort to advertise the double penalty in work zones. We worked with the Nevada Department of Transportation (NDOT) to get the speeds lowered. At first NDOT was reluctant to impede the flow of traffic. We timed travel through the 2-mile construction zone on U.S. 395 through the "spaghetti bowl" in Reno. At a reduced speed to 50 miles per hour, it took 10 seconds longer.

Those who know somebody who works in a highway construction zone are in favor of the double penalty and slowing down. Our local union has had no fatalities due to the motoring public since 1993, and we want to keep it that way. Over the past couple of years, there have been four or five NDOT workers seriously injured or killed in work-zone accidents. Those are the people we want to protect. We are not in favor of reducing the penalty, but we are in favor of clarifying how and when it is applied and the criteria by which it is applied. We would also like clarification on surface streets.

Regarding when cones and various materials come down, that is up to the awarding agency. As part of a NDOT study, restrictions were placed on how much road could be closed in a work zone, such as no more than two miles in a large project.

JACK JEFFREY (Laborers International Union of North America Local 872):

We are opposed to the bill in its current form. We will work with other interested parties to improve the bill.

MATT NICHOLS (Committee Counsel):

There has been some discussion today about the precise definition of highway and what that encompasses. The common law highway was any public roadway, and that definition has been codified in NRS 484.065. Any roadway that is public and available to the public maintained by a public entity is a highway for the purposes of this chapter. So, it is not just 95.

JEANETTE K. BELZ, M.B.A. (AGV, Nevada Chapter):

With regard to taking down highway construction work-zone restrictions, that is an awarding agency function. If the agency has not cleared it, then we do not take them down. I would suggest talking to the agency.

CONSTANCE J. BROOKS (Senior Management Analyst, Office of the County Manager, Clark County):

We are in support of this bill. Thank you for the definition of highway, as that was a concern. We were looking for additional language to clarify or include other work areas, in particular, the safety of workers when doing sewer work and water line rehabilitation.

BRIAN O'CALLAGHAN (Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

We are neutral on S.B. 134.

MR. ADAMS:

We are neutral on S.B. 134. You tell us the location of the work zones and the safe lanes, and we will enforce the law.

MR. ALMARAZ:

We are neutral on S.B. 134. Give us the parameters, and we will enforce the law. Highway construction zones are always problematic with the potential for hazards.

SENATOR NOLAN:

Not only is the bill being presented to protect workers, but also because road configurations can be greatly modified and transiting through them at the regular speed would be a hazard. We will address not only Senator Coffin's concern, but also work with others to make this bill more effective.

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CHAIR SCHNEIDER:

I am referring S.B. 134 to a subcommittee with Senator Lee who can work with Senator Coffin on the various issues.

I would like to bring back S.B. 114 that we passed on February 17, 2009.

SENATE BILL 114: Makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources. (BDR 58-380)

Senator Townsend made the motion and Senator Carlton seconded. The effective date in the bill was October 1, 2009. Upon discussion, it was decided to bring the bill back to re-amend the effective date upon passage and approval to be immediately effective.

SCOTT YOUNG (Committee Policy Analyst):

You can actually, since it has not gone to the Floor yet, you can do an amendment here. What you would be doing is amending the version that you amended yesterday. So, in effect, you'll have two amendments, but when it goes to the Floor, you'll have one. It'll be a second reprint bill when it's finally processed there. But, it's probably easier just to do it here in Committee, if you want to do that.

SENATOR TOWNSEND MOVED TO AMEND S.B. 114 TO CHANGE THE EFFECTIVE DATE FROM OCTOBER 1, 2009, TO EFFECTIVE UPON PASSAGE AND APPROVAL.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

The meeting of the Senate Committee on Energy, Infrastructure and Transportation is adjourned at 9:58 a.m.

RESPECTFULLY SUBMITTED:

Laura Adler,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____